



Mission Statement

“Advancing Constitutional Policing and Accountability for the Albuquerque Police Department and the Albuquerque Community”

Semi-Annual Report

January 1st 2022- June 30th 2022

Diane McDermott

Interim Executive Director

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List of Acronyms

- *APD*- Albuquerque Police Department or “Department”
- *APOA*- Albuquerque Police Officer’s Association
- *CABQ*- City of Albuquerque
- *CAO*- Chief Administrative Officer
- *CBA*- Collective Bargaining Agreement
- *CPOA*- Civilian Police Oversight Agency or “Agency”
- *CPOAB*- Civilian Police Oversight Agency Board or “Board”
- *CPOA/Board*- Both Agency and the Board
- *CASA*- Court Approved Settlement Agreement
- *CRC*- Case Review Sub-Committee
- *CPC*- Civilian Police Complaint
- *CPCs*- Community Policing Councils
- *DOJ*- Department of Justice
- *ECW*- Electronic Control Weapons
- *FRB*- Force Review Board
- *IA*- Internal Affairs
- *IAPS*- Internal Affairs Professional Standard
- *IAFD*- Internal Affairs Force Division
- *OBRD*- On-Body Recording Device
- *OIS*- Officer Involved Shooting
- *OPA*- Office of Policy Analysis
- *PNP*- Policies and Procedures Review Sub-Committee
- *PPRB*- Policy and Procedures Review Board
- *SOPs*- Standard Operating Procedures
- *SNBOOC*- Sustained Not Based on Original Complaint
- *SUOF*- Serious Use of Force
- *UOF*- Use of Force

Report Highlights

- Civilian Police Oversight Agency recorded 305 complaint notifications and opened (assigned CPC numbers) 141 complaint investigations against APD personnel during the reporting period starting January 1st 2022 and ending June 30th 2022.
- The Agency completed 97 civilian police complaint investigations during this reporting period compared to 95 in the last reporting period.
- 86% of the civilian police complaints were closed within 120 days compared to 53% in the last reporting period.
- The Agency opened 141 complaints investigations compared to 135 during the last reporting period.
- 20% of the completed investigations were 'Administratively Closed'.
- 30 APD Standard Operating Procedures (SOPs) came under review 201 times in 80 completed complaint investigations. SOP 1-1 Personnel Code of Conduct came under review 108 times in civilian police complaint investigations.
- 19 notification of non-concurrences were received from the Chief of Police.
- 120 APD employees were identified in completed complaint investigations during this reporting period, out of those, 49 were Police Officer/Patrol Officer 1st class.
- 87% of the APD employees identified in complaint investigations were white (51% white Hispanic, 49% white non-Hispanic) and 72% were Male.
- 93 complainants were identified in completed investigations during this period. 6 filed complaints anonymously. 46 were male, 38 were female, and 9 complainants did not identify their gender. Youngest complainant was 19 years old and the oldest was 73 years old.
- 40% of the complainants were white while 31% did not report on race. 31% were Hispanic, 31% non-Hispanic while 38% complainants did not report on their ethnicity.
- Majority of the complainants were heterosexual (approx. 39%), while a significantly larger number (48%) did not report on their sexual orientation.
- 9% of the complainants reported they experience mental illness while 59% reported no mental illness. 32% of the complainants did not report on this information.
- 63% of the complainants reported they were not homeless when they interacted with APD while 5 complainants noted they were homeless at the time of the interaction. 31% again, did not report.
- 52 Serious Use of Force/Level 3 cases were reported by IAFD. 16 SUOF cases were reviewed by the CPOA Board after they were reviewed by the Force Review Board (FRB).

Introduction

The Civilian Police Oversight Agency (CPOA) is an independent Agency of the City of Albuquerque and is neither part of the City government or the City Council. The CPOA consists of the Board (CPOAB) and an Administrative Office (CPOA or “Agency”) led by the Executive Director. The CPOA investigates and review complaints and commendations submitted by the community members concerning the Albuquerque Police Department (APD) personnel and provides policy, disciplinary, training and procedural recommendations to the department. As stated in the Oversight Ordinance section (§ 9-4-1-2), the purpose of the CPOA is to:

- (A) Foster and perpetuate policing policies and practices that effectively maintain social order and which at the same time foster mutual trust and cooperation between police and civilians;*
- (B) Ensure that the civilian police oversight body functions as independently as possible from the executive and legislative branches of government of the City of Albuquerque;*
- (C) Provide civilians and police officers a fair and impartial system for the investigations and determinations on civilian police complaints;*
- (D) Gather and analyze information, reports, and data on trends and potential issues concerning police conduct and practices and the related impacts on the community and individuals; and*
- (E) Provide input, guidance and recommendations to the City Council, the Mayor and the Chief of Police for the development of policy for the Albuquerque Police Department.*

The CPOA is mandated by the Oversight Ordinance (§ 9-4-1-10) to regularly inform the Mayor, the City Council and the Public by submitting written semi-annual reports. The information provided in this report is for period beginning January 1st 2022 through June 30th 2022. This report is divided into the following sections:

- I. Complaint Details
- II. Employee and Complainant Demographics
- III. APD Use of Force Incidents
- IV. Public Outreach
- V. CPOA/Board Policy Activities, Policy Recommendations provided to APD, CPOAB Training Status & Legislative Amendments to Oversight Ordinance and Policies and Procedures

The first section, ‘Complaint Details,’ identifies the total number of complaints investigated (assigned CPC numbers) and closed (case investigation completed) during the first six months of 2022. This section covers complaint closure timelines, complaints source, the number of complaints by the city council districts and number of complaints investigated and closed compared to the previous years. Furthermore, the section provides information related to the SOPs that came under review in completed investigations, identifies the CPOA investigative findings as well as provide snapshot of the letters of non-concurrences from the Chief of Police for findings or disciplinary recommendations as required by the Oversight Ordinance.

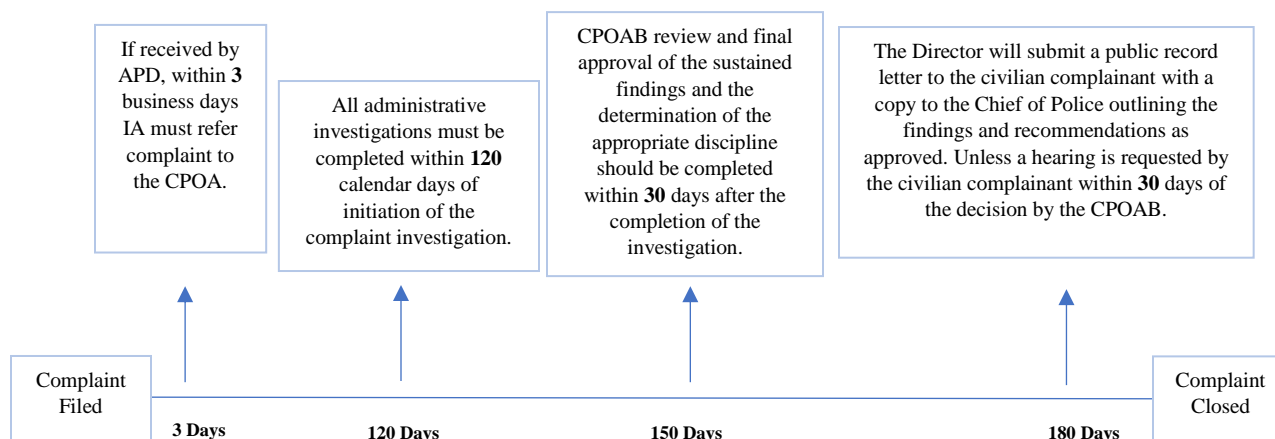
The second section, ‘Employee and Complainant Demographics,’ reports demographic information on both APD employees and the complainants. The information includes gender and race of employees involved, their rank, assigned bureau and division, median age, and also identifies number of employees involved in repeated complaints. With regard to the information about the complainants, this report provides data on their gender, race and ethnicity, sexual orientation, housing, mental health status and age.

The third section ‘APD Use of Force Incidents’ provides a snapshot of uses of force incidents that were investigated by Internal Affairs Force Division (IAFD) and Serious Uses of Force incidents reviewed by the CPOAB during the first six months of 2022. Section four will highlight Outreach initiatives undertaken by the CPOA/Board during this reporting period. The final section highlights ‘the CPOAB policy activities, policy, procedural or training recommendations provided to the APD, discussion of issues/matters pertinent to the APD, status of the CPOA Board members

training and the amendments to the policies and procedures as well as oversight ordinance recommendations provided to the City Council for consideration.

Since March 18th 2020, Mayor Tim Keller declared Public Health Emergency for the City of Albuquerque due to the novel coronavirus (COVID-19). The CPOA remained operational in the modified capacity during this reporting period since march 2020 which significantly impacted both the Agency and the Board processes. Some of the processes impacted as a result of COVID-19 includes but not limited to; case investigations process while working remotely, inability to conduct in-person interviews for both officers and complainants and shift from in-person to online zoom meetings for the CPOA as well as the Board public meetings.

Complaint Investigation Process



Complaint Timelines

Civilian police complaints can either be filed with the police department or with the CPOA itself. If the complaint is filed with the police, they must refer the complaint to the CPOA within three business days. Once the complaint is received by the CPOA, the review and assessment of civilian complaint shall begin immediately. The CPOA will mediate complaints, whenever appropriate and with agreement of all parties involved. During this reporting period, the mediation program remained suspended after an unsuccessful second pilot program which ended in July of 2021.

For the cases not referred to Mediation, Internal Affairs or Area Command, the CPOA is responsible to open a case and assign it to an investigator. The assigned investigator will review the complaint, interview complainants/witnesses, obtain evidence, and interview the APD personnel involved, when appropriate and review other necessary materials. Once the complaint investigation is completed, the Executive Director of the Agency will review the findings of the investigation to determine if there are any violations of Albuquerque Police Department Standard Operating Procedures (SOPs). The investigator may close the complaint following an initial (preliminary) investigation or may take it for a full investigation. A complaint can be resolved without a full investigation for the following reasons:

- The investigator verifies after initial review that the complaint does not constitute misconduct by an APD employee,

- The investigator cannot minimally substantiate allegations,
- The policy violations are minor,
- The allegations are duplicative,
- There is lack of information to complete the investigation,
- The complainant requests a withdrawal of the complaint, or
- The complaint was lodged against someone who is not an APD employee.

Paragraph 191 of the Court Approved Settlement Agreement (CASA) stipulates *“All administrative investigations conducted by the Internal Affairs Division or the Civilian Police Oversight Agency shall be completed within 90 days of the initiation of the complaint investigation. The 90-day period shall not include time for review. An extension of the investigation of up to 30 days may be granted but only if the request for an extension is in writing and is approved by the Chief. Review and final approval of the investigation, and the determination and imposition of the appropriate discipline, shall be completed within 30 days of the completion of the investigation. To the extent permitted by state and city law, extensions may also be granted in extenuating circumstances, such as military deployments, hospitalizations of the officer, and extended absences.”* This CASA paragraph is no longer applicable with the revised Collective Bargaining Agreement (CBA) between the City and the APOA and requires modification.

The CBA was renegotiated in January 2022 which now states *“Every investigation shall be concluded within one hundred and twenty (120) days measured from issuance of the notice in writing to the officer, or the assigning of the investigation case number to the disciplinary investigation, whichever is later and within the 15-day time period.”* With this change, the CPOA now has a total of 120 days to complete the complaint investigation. The 30-day extension request from the Chief of Police is no longer applicable. In some cases, citizens do not file complaint with the CPOA immediately after the incident, the body camera footage of the incident may not be available to CPOA investigators due to APD’s On-Body Recording Device (OBRD) non-evidentiary video retention policy of 120 days.

The CPOA Board reviews the outcome of civilian police complaints for informational purposes during the monthly board meetings or special meetings. The Board reviews the recommendation

and votes to authorize the submission of disciplinary recommendations to the Chief of Police. The Executive Director upon approval of disciplinary recommendation by the Board submits a public record letter to the complainant with a copy to the Chief of Police that outlines the findings and disciplinary recommendations. Upon receipt of the findings, the civilian complainant has 30 days to request an appeal of the CPOAB's decision. If no appeal is requested, the Chief of Police must notify the CPOAB and the original complainant of their final disciplinary decision. The Chief of Police/Superintendent of Police Reforms retains sole authority to take disciplinary action against an APD employee for violations of the department's SOPs.

The complainant may disagree with the Chief's disciplinary findings and can file an appeal to the Chief Administrative Officer (CAO) of the City of Albuquerque concerning the discipline. The CAO shall within 90 days decide the disposition of the complaint. If the investigation exceeds nine months period, the Executive Director must report the reasons to the CPOAB. The Agency does not conduct criminal investigations. At any point during the investigative process, if the investigators determine criminal allegations are associated with the civilian complaint, the administrative investigation is transferred to Internal Affairs Bureau at APD.

There are six possible findings of complaints investigated by the CPOA which includes:

- **Sustained** – Where the investigation determines, by a preponderance of the evidence that the alleged misconduct did occur.
- **Not Sustained** – Where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred.
- **Exonerated** – Where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training.
- **Unfounded** – Where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.
- **Sustained Violation Not Based on Original Complaint (Sustained/NBOOC)** – Where the investigation determines, by a preponderance of the evidence, that misconduct did occur that was not alleged in the original complaint but was later discovered during the investigation.

- **Administratively Closed** – Where the policy violations are minor, the allegations are duplicative, or investigation cannot be conducted because of the lack of information in the complaint.

Data Source and Limitations

This report highlights complaints opened for investigation and complaints closed (investigation completed) along with the findings; demographic information of employees and complainants; and number of serious uses of force incidents. It also provides information regarding policy activities at APD during the reporting period; policy recommendations given by the CPOA/Board, CPOAB training status as well as the CPOA/Board public outreach efforts. Data for this report is retrieved from the IA Pro (Internal Affairs record management database), complainant data retained by the CPOA, CPOAB meeting minutes and City of Albuquerque human resources.

Since the majority of the data is extracted from IA Pro database, it is important to note that the CPOA is not an IA Pro administrator and only has limited control over data entry into the database. The data contained in this report represents the most accurate information available at the time of retrieval. Moreover, the information stored in the database is dynamic and can change as an investigation progresses. The CPOA cannot certify the validity and reliability of APD Internal Affairs data retrieved from the database. Since the complaint data were drawn from live databases, changes in coding, complaints specifications, allegations, employee/complainant and outcome numbers may fluctuate over time and are subject to revision. Addition of new information in the cases later in the stage of investigative process may also lead to discrepancies between data presented in this report and historical data presented in previous CPOA reports.

Section 1. Complaint Details

Civilian Police Oversight Agency is responsible for receiving and investigating all complaints involving APD employees and ensuring that the complaint process is accessible to all members of the community. Any person claiming to be aggrieved by actions of the Albuquerque police may file a complaint against any of its employees/officers.

During the reporting period of January 1st 2022 to June 30th 2022, the CPOA recorded a total of 305 complaints/concerns and opened (assigned CPC numbers) 141 complaint investigations. Note that complaint investigations are an on-going process and so these numbers may change in future. Several complaints recorded by the Agency were not assigned for investigation due to reasons including but not limited to:

- Lead Investigator after initial complaint review evidently determined that allegations are not true or does not constitute misconduct,
- Duplicative complaints (already assigned a CPC number),
- Complaints not involving APD personnel (out of jurisdiction),
- Complaints at time of receipt were resolved through informal mediation,
- Driving complaints forwarded to officer supervisor for resolution,
- Lack of information to open an investigation and,
- Complaints forwarded to Internal Affairs due to aspect of criminal allegations.

Complaints opened for investigation by each month (as depicted in the chart on the right) shows that the majority (approx. 26%) were opened in the month of May. The CPOA closed/completed a total of 97 complaint investigations which is a slight increase from the last reporting period when the Agency closed 95 cases. Out of 97 completed investigations, 75 were opened prior to this reporting period while 22 were opened and closed during this

Complaints Recorded

305

Complaints Opened

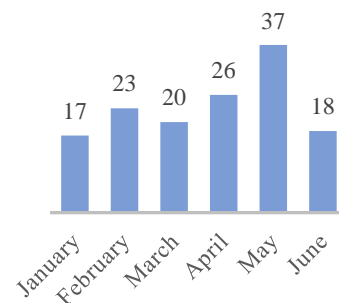
(Those assigned CPC numbers)

141

Complaints Closed

97

Data Source: IA Pro



reporting period. Of the complaints that were closed, (approx. 20%) were closed administratively. Paragraph 184 of the CASA in part states *“Administrative closing or inactivation of a complaint investigation shall be used for the most minor policy violations that do not constitute a pattern of misconduct, duplicate allegations, or allegations that even if true would not constitute misconduct.”*

Investigation Completion Timelines

Information pertinent to complaint investigations timelines for the current reporting period is highlighted in this section. Per the renegotiated collective bargaining agreement in January 2022, every investigation shall be concluded within 120 days. For this reporting period, 84 out of the 97 complaints were closed within 120 days. Table 1 below provides a snapshot of all complaints closed by the Agency by the total number of days taken for case completion.

Up to 120 days	121-150 days	151-180 days	181 days- 9 months	Over 9 months	Total
84	8	4	1	0	97

Table 1. Investigation Completion Timeline
Data Source: IA Pro- January 1st 2022-June 30th 2022

Complaint Sources

Complaints received by the Agency can come through different sources. A complainant may file it in writing/in-person or over the phone. They can email, file online, send the complaint through regular mail, or fax the complaint. Complaint forms are available online, at all police sub-stations, supervisor patrol cars, libraries and community centers across Albuquerque - covering more than fifty locations. For the period of January 1st to June 30th 2022, out of the 141 complaints opened, 54 reached the Agency through online self-

reporting by citizens, 30 complaints were received via blue team¹/APD, while 23 were received by the Agency through email. Table 2 below lists the source of all complaints that were opened for investigation during this reporting period.

Blue- team	Email	311	Online-Self Reported	Online- Call in	In- Person	Written- Mail
30	23	3	54	6	13	12

Table 2. Complaints Source
Data Source: IA Pro- January 1st 2022-June 30th 2022

Complaint by City Council Districts

The information reported in this sub-section provides a list of complaints opened for investigation identifying incident location (if any) by the City Council districts. Of the total 9 City Council districts in Albuquerque, majority of the complaints opened were for incidents which occurred in District 6 and District 2, with 32 and 23 complaints respectively. The CPOA opened the least number of complaints for police misconduct incident occurring in City Council Districts 3 and 8 with 4 complaints each. Figure 1 below provides a snapshot of all City Council districts in Albuquerque as well as provide information on number of complaints opened by the Agency for incidents occurring in respective council districts. 6 complaints did not identify city council districts where the incident occurred. These are listed as ‘not reported’ in the figure below.

¹ Blue Team is a program in IA Pro which allow Incidents (use-of-force, field-level discipline, complaints, vehicle accidents and pursuits) to be entered and routed through the chain-of-command for review and approval. The source for complaints received by APD and forwarded to the CPOA are listed as ‘Blue-team’ in this report

District 1= 12
District 2= 23
District 3= 4
District 4= 9
District 5= 6
District 6= 32
District 7= 20
District 8= 4
District 9= 10
Out of Area= 5
Not Applicable = 10
Not Reported= 6

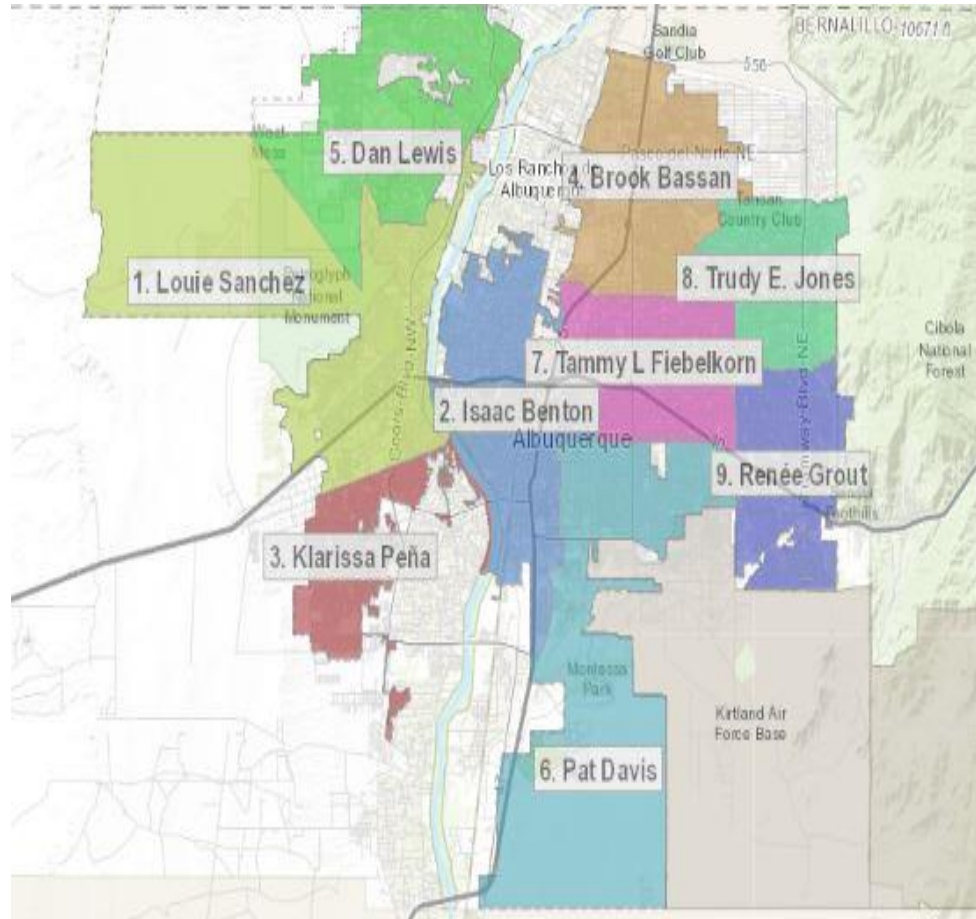


Figure 1.

Albuquerque City Council Districts Map & misconduct incident leading to complaint by each district

Data Source: IA Pro- January 1st 2022-June 30th 2022

Several citizens who filed complaints did not provide information regarding incident location. Some complaints were filed against employees for reasons not involving a physical incident, such as conduct by an employee over the phone or officers not following up on investigations, which are shown as ‘Not Applicable’ in the figure above. 5 complaints opened during this reporting period were from ‘Out of Area’ suggesting the incident which led to complaint filing occurred outside of the City Council’s jurisdiction.

Complaints Trend

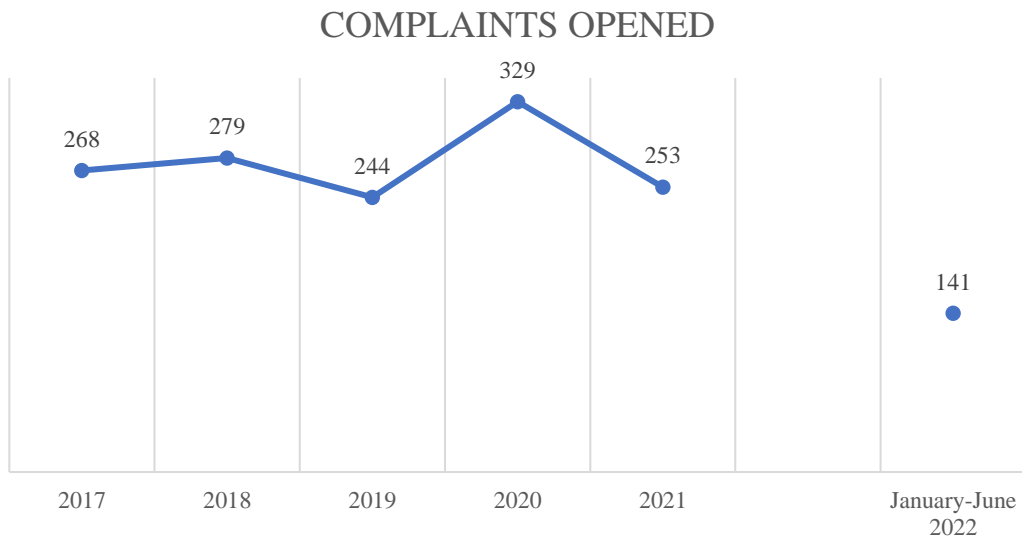


Figure 2.1. Civilian Police Complaints opened trend
Data Source: IA Pro- January 1st 2017-June 30th 2022

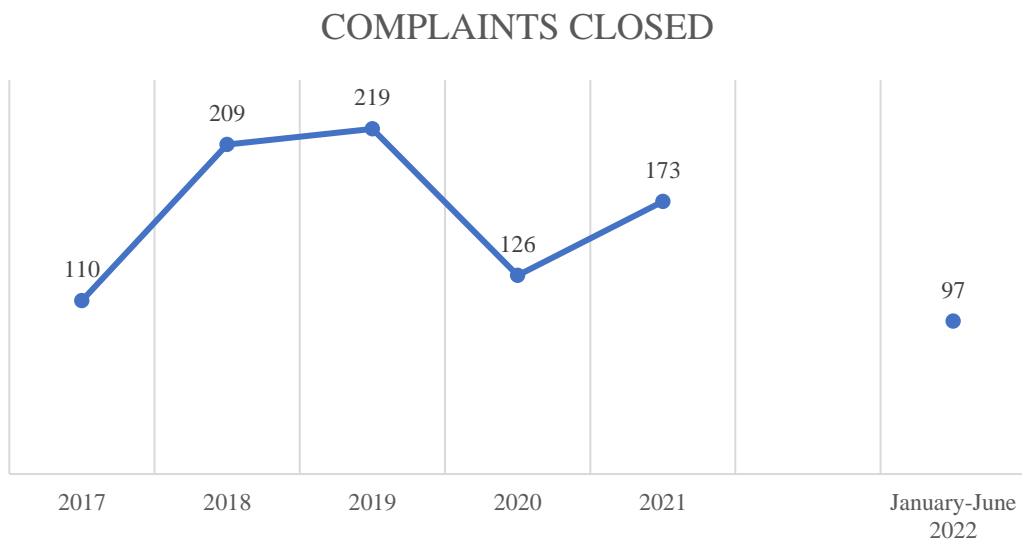


Figure 2.2. Civilian police complaints closed trend
Data Source: IA Pro- January 1st 2017-June 30th 2022

Figure 2.1 and 2.2 above presents the number of complaint investigations opened and closed by the Agency from January 2017 to date. *141* complaints were opened for investigations during the current reporting period compared to *135* complaints during the last six months of 2021. During the years 2020 and 2021, the Agency opened investigations for *329 and 253* complaints respectively as seen in figure 2.1 above. The Agency completed case investigations for *97* complaints during this reporting period compared to the last reporting period when the Agency closed *95* complaint investigations.

Complaint Disposition

Following the completion of investigation for civilian police complaint, the CPOA concludes one of several findings for each allegation associated with the complaint. These include: Unfounded (investigation determined that misconduct did not occur), Sustained (alleged misconduct did occur), Not Sustained (unable to determine by preponderance of evidence whether misconduct occurred), Exonerated (alleged conduct occurred, but did not violate APD policies, procedures or training), Administratively Closed (minor policy violation, duplicative allegations, or cannot conduct investigation due to lack of information in the complaint) and Sustained NBOOC (sustained finding not based on original complaint).

It is important to note that there can be more than one allegation and more than one officer involved in one civilian police complaint. For instance, if there are 3 allegations in one complaint, there will be 3 findings for each allegation (e.g. Sustained, Unfounded & Admin Closed). For such case, the findings in this report will be reported as ‘sustained’ which is the highest disposition as reported in IA Pro database. Figure 3 below illustrates disposition for all civilian police complaints which were completed during January 1st 2022 to June 30th 2022.

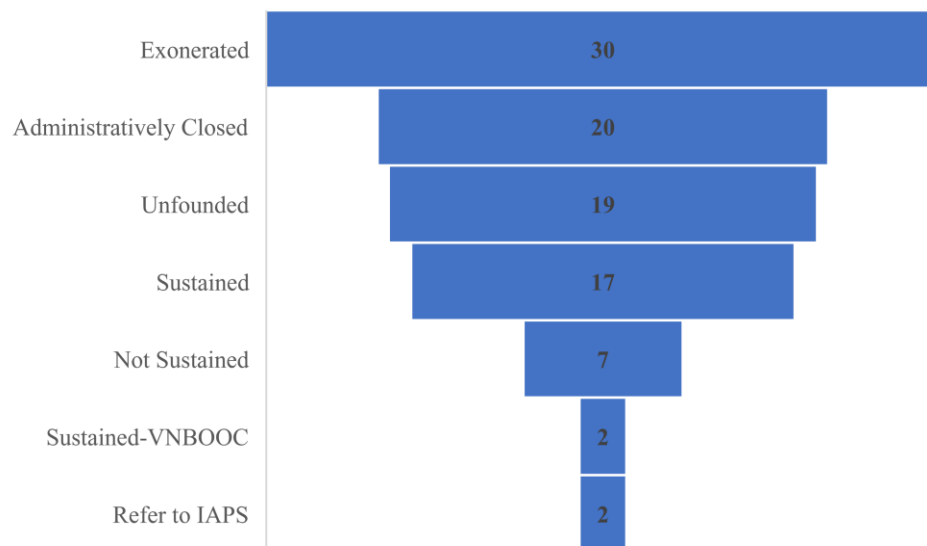


Figure 3. CPOA findings for Complaints Closed
Data Source: IA Pro- January 1st 2022-June 30th 2022
Sustained-VNBOOC-Sustained Violation Not Based on Original Complaint

Table 3 below provides a snapshot of all administratively closed cases and identifies why this finding was assigned. 7 out of 20 cases were administratively closed due to ‘Lack of information’ and complaint being ‘Withdrawn’ respectively.

Reason for Admin Closed	Count
Lack of Information	7
No Jurisdiction	4
Duplicative	1
Mediate	1
Withdrawn	7
Total	20

Table 3. Administratively closed cases
Data Source: IA Pro- January 1st 2022-June 30th 2022

APD SOPs Reviewed in Completed CPOA Investigations

SOP Number & Title	Times Reviewed	Disposition
2-21 Apparent Natural Death/Suicide of and Adult	1	x1 Unfounded
1-4 Biased Based Policing/Profiling	4	x3 Unfounded, x1 Not Sustained
2-01 Communications	7	x2 Exonerated, x2 Sustained, x3 Admin Closed
2-92 Crimes Against Children	6	x6 Exonerated
2-7 Damage to Civilian Property	1	x1 Sustained
2-5 Department Vehicles	1	x1 Sustained
4-25 Domestic Violence	6	x1 Sustained, x3 Exonerated, x2 Admin Closed1 Sustained
2-42 DWI Investigations and Revoked/Suspended License	1	x1 Unfounded
2-65 Language Access Procedure	1	x1 Not Sustained
1-95 Metro Traffic Division	2	x2 Admin Closed
2-40 Misdemeanor Traffic and City Ordinance Enforcement	5	x3 Sustained, x2 Exonerated
2-17 Offense/Incident Report Form	1	x1 Sustained
3-13 Officer's Duties and Conduct	1	x1 Exonerated
1-1 Personnel Code of Conduct	108	x49 Exonerated, x25 Unfounded, x15 Not Sustained, x13 Sustained, x3 SVNBOOC, x2 Admin Closed, x1 R-IAPS
2-36 Police Press Relations and Release of Police Identification Photographs	1	x1 Exonerated
1-78 Police Service Aide Program	4	x4 Sustained
2-60 Preliminary and Follow up Criminal Investigations	18	x7 Exonerated, x6 Sustained, x3 Unfounded, x1 Not Sustained, x1 Admin Closed
2-16 Records	1	x1 Sustained
2-46 Response to Traffic Crashes	2	x1 Sustained, x1 Admin Closed
2-82 Restraints and Transportation of Individuals	1	x1 Sustained
2-33 Rights and Safety of Onlookers	1	x1 Exonerated
2-71 Search and Seizure Without a Warrant	2	x2 Unfounded
1-2 Social Media	2	x2 Not Sustained
2-73 Submission of Evidence, Confiscated Property, and Found Items	2	x2 Sustained
3-14 Supervisory Leadership	2	x1 Sustained, x1 SVNBOOC
8-11 Telephone Reporting Unit	1	x1 Unfounded
2-48 Towing and Wrecker Services	4	x4 SVNBOOC
2-41 Traffic Stops	2	x2 Sustained
2-52 Use of Force-General	10	x7 Unfounded, x2 Not Sustained, x1 Exonerated
2-8 Use of On-Body Recording Devices	3	x2 SVNBOOC, x1 Sustained

Table 4. SOPs reviewed in completed CPOA Investigations
Data Source: IA Pro- January 1st 2022-June 30th 2022
SVNBOOC-Sustained Violation Not Based on Original Complaint
R-IAPS- Referred to Internal Affairs Professional Standard

This sub-section identifies allegations associated with complaints that were closed by the Agency during this reporting period. With the help of this data, we can identify the department standard operating procedures which came under review the most in civilian police complaints investigated by the CPOA.

30 APD SOPs came under review 201 times for 80 completed complaint investigations. SOP 1-1 (Personnel Code of Conduct) was reviewed the most (108 times) while SOP 2-60 (Preliminary and Follow up Criminal Investigations) came under review 18 times in civilian police complaint investigations during this reporting period. Table 4 above lists all the SOPs that were reviewed, number of times they were reviewed along with the case disposition.

Chief Non-Concurrences with CPOA Findings or Disciplinary Recommendations

This sub-section identifies cases when the Chief of Police did not concur with the CPOA proposed findings or disciplinary recommendations concerning an APD employee. Oversight Ordinance section (§ 9-4-1-4-C-3-g) stipulates *“Imposition of the recommended discipline is at the discretion of the Chief of Police. However, if the Chief of Police does not follow the disciplinary recommendation of the Director, with Board approval, the Chief of Police shall respond in writing, within 30 days of the department's final disciplinary decision, with a detailed explanation of the reason as to why the recommended discipline was not imposed. The Chief shall identify the specific findings of the Director with which the Chief disagrees, or any other basis upon which the Chief declined the Director's disciplinary recommendation”*. During this reporting period, the CPOAB received 19 (CPC 038-21, CPC 093-21, CPC 109-21, CPC 249-20, CPC 250-20, CPC 100-21, CPC 134-21, CPC 140-21, CPC 149-21, CPC 155-21, CPC 159-21, CPC 170-21, CPC 174-21, CPC 224-21, CPC 214-21, CPC 248-21, CPC 191-21, CPC 202-21, CPC 207-21) notification of non-concurrences from the Chief of Police. (See Appendix III-1 to 19)

Section II. Employee and Complainant Demographics

Section § 9-4-1-10-B of the Oversight Ordinance requires reporting of demographic information pertinent to department personnel as well as complainants listed in civilian police complaints. This section is divided into two sub-sections, first will provide information for APD employees while the second sub-section reports on demographic information of complainants identified in completed complaint investigations from January 1st 2022 to June 30th 2022.

Employee Demographics

Complaints can be filed against both sworn and non-sworn employees of the Albuquerque Police Department. A total of 120 APD employees were identified in 97 completed investigations during this reporting period. Out of 97 completed investigations, 88 provided information regarding sworn and non-sworn APD employees while 9 complaints did not identify involved employees in the IA Pro database. Complaints that did not identify employee information, were all 'Administratively Closed'. Note that one complaint can have more than one employee involved.

As required by the Oversight Ordinance, this sub-section reports on demographic characteristics of APD employees who were identified in completed civilian police complaint investigations in this reporting period. The information reported here provides a snapshot of the employee's rank, includes information on employees by the number of times they were identified in complaints, assigned bureau and division, race & ethnicity, gender and median age. Table 5 below illustrates the total number of APD employees by their race, ethnicity and gender as of June 30th 2022.

Race & Ethnicity	Female	Male	Total
American Indian or Alaskan Native	20	19	39
Asian (Not Hispanic or Latino)	6	15	21
Black or African American	5	30	35
Hispanic or Latino	306	429	735
Native Hawaiian or Other Pacific Islander	3	5	8
Two or More Races (Not Hispanic or Latino)	13	17	30
White (Not Hispanic or Latino)	166	446	612
Total	519	961	<u>1480</u>

*Table 5. APD Employee Demographics as of June 30th 2022
Data Source: City of Albuquerque, Human Resources*

Employee's Rank

As stated earlier, 120 employees were identified in complaints closed during the current reporting period. Among those, 49 were Police Officer's 1st class and 16 were Senior Police Officer 1st class. Please note that 2 officers were identified in complaints at different ranks which led to an increase in the total number shown in the figure below. Figure 4 below provides information regarding all employee's rank at the time of incident who were identified in completed complaint investigations.

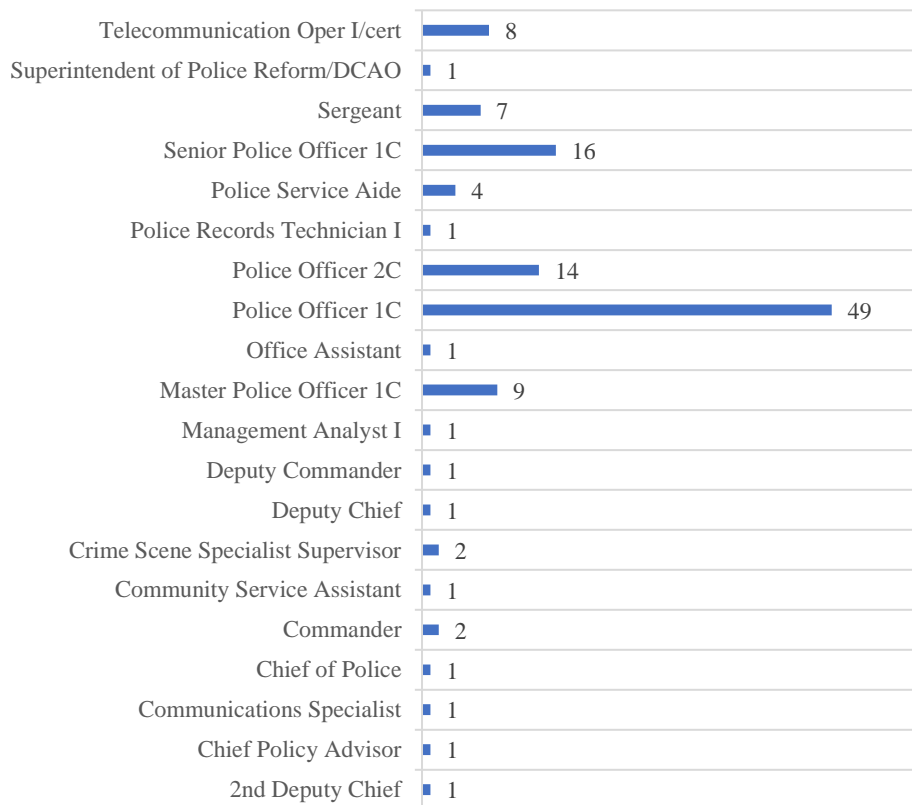


Figure 4. Employees Rank
Data Source: IA Pro- January 1st 2022-June 30th 2022

Employee's Involved in Complaint Investigations

This sub-section identifies the number of complaints closed by the total number of employees involved. Of the total 97 complaints closed during this period, 88 identified information about involved employees. Table 6.1 below provides breakdown of number of complaints (CPCs) by number of involved employees in each complaint.

Number of Complaints (CPCs)	Concerned Employees
55	1
21	2
8	3
3	4
1	5

Table 6.1 Complaints Closed & Employees involved
Data Source: IA Pro- January 1st 2022-June 30th 2022

This sub-section reports on the number of times APD employees were involved in complaints investigated during this reporting period. Table 6.2 below provides snapshot of employees involved and times they were involved in completed complaint investigations.

Number of Employees	Times Involved
104	1
14	2
2	3

Table 6.2 Times Employees involved
Data Source: IA Pro- January 1st 2022-June 30th 2022

Employee's Assigned Bureau

This sub-section provides information pertinent to the bureau of involved employees at the time of misconduct incident. Majority of the complaints identified employees from the Field Services Bureau. Figure 5 highlights all the employees who were identified in completed complaint investigations by their assigned bureaus. Note that 18 employees did not have information regarding their assigned bureau in the database and 2 employees were identified in complaints as part of two separate bureaus at the time of complaint receipt.

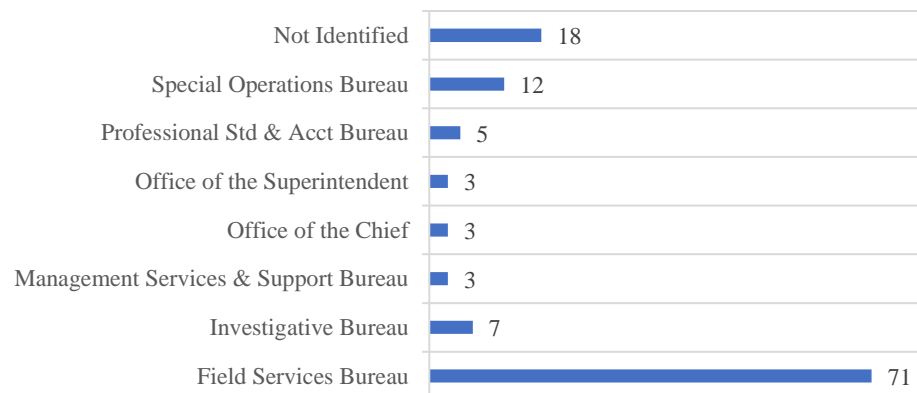


Figure 5. Employee's Assigned Bureau
Data Source: IA Pro- January 1st 2022-June 30th 2022

Employee's Assigned Division

This sub-section provides information related to employee's division. Total of 16 employees listed in completed complaint investigations were assigned to the Southeast area command division and Southwest area command division respectively. 6 employees received complaints at different divisions leading to a high number shown in the figure below. Further breakdown of employees by their assigned divisions at the time when complaint was investigated by the Agency is illustrated in figure 6 below. Note that similar to assigned bureau information, 18 employees did not have information regarding their assigned division in the database.

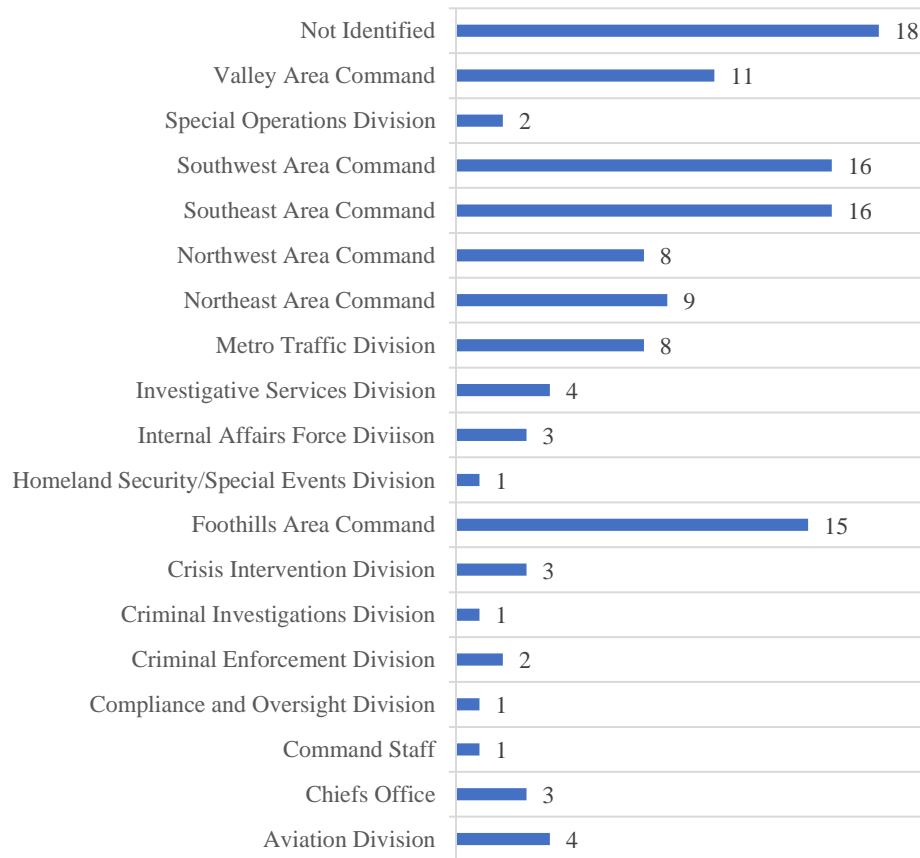


Figure 6. Employee's Assigned Division
Data Source: IA Pro- January 1st 2022-June 30th 2022

Employee's Gender, Race and Ethnicity

The Police Oversight Ordinance requires reporting demographic information of APD employees who were listed in the civilian police complaints. The information can aid in identifying the trends and biases of employees originating specifically due to the race and gender and can also inform the CPOAB to provide policy, training and/or procedural recommendations to APD. As seen in the figure 7, approximately 87% of APD employees identified in completed complaint investigations were of white race and approximately 72% were male. Of the total 105 employees of white race, 54 were white (Hispanics) and 51 were white (Non-Hispanics).

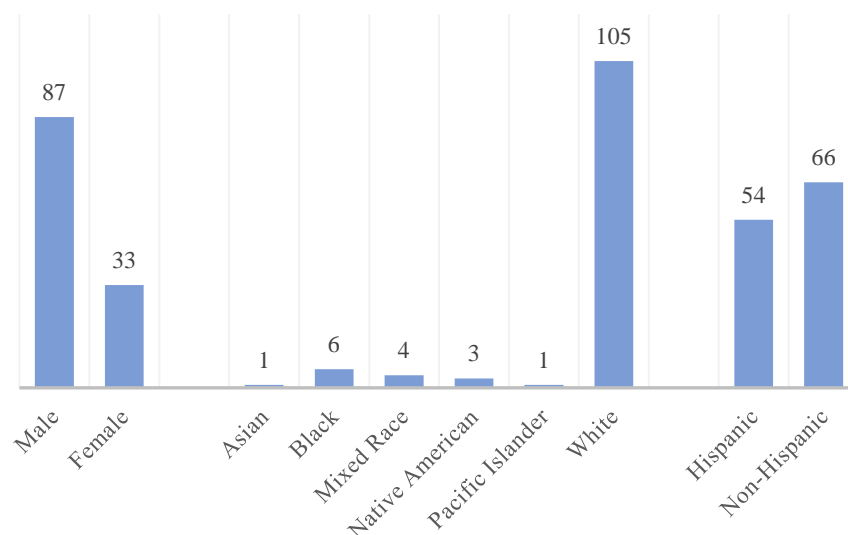


Figure 7. Employee's Gender, Race & Ethnicity
Data Source: IA Pro- January 1st 2022-June 30th 2022

Employee's Median Age

This sub-section shows the median age range of all employees who were identified in misconduct complaints investigation during this reporting period. 29 employees were in the age group of 26-30 years while 24 were between 18-25 years old at the time of the incident. The youngest APD employee identified in the CPOA investigation was 19 years old while the oldest employee was 67 years old at the time when the incident occurred.

Note that 2 employees were identified in 2 separate complaints at the age of 30 and 31, showing the total number of employees as 122. Figure 8 below provides information regarding all employees' age who were identified in completed civilian police complaint investigations.

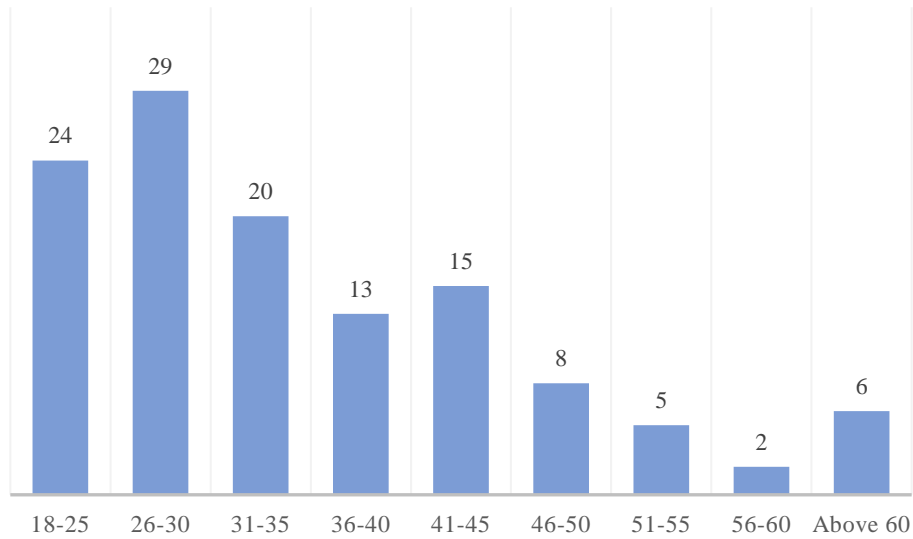


Figure 8. Employee's Median Age
Data Source: IA Pro- January 1st 2022-June 30th 2022

Complainant's Demographics

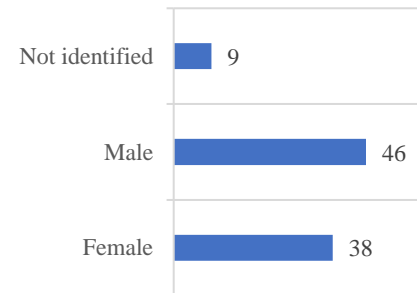
This section identifies complainant's demographic information who were listed in completed complaint investigation for this reporting period. For the current reporting period, the Agency completed 97 civilian police complaint investigations identifying 93 complainants. 6 out of those filed complaints anonymously. The data provided in this section provides information on complainants' gender, race, ethnicity, sexual orientation, mental health status, median age and housing status (homeless).

During this reporting period, 1 complainant was listed in 3 separate closed complaints and 1 was listed in 2 complaints. 2 civilian police complaints closed did not list any complainant names (1 referred to IA and one was administratively closed). 1 civilian police complaint closed during this period listed 2 complainants. The source of data reported in this section is from the complaint form 'Optional Demographic Section'. Note that information reported in this section mirrors the information reported by the citizen in the complaint form. The complainant might state they do not have mental illness in the complaint, but is later determined that they have mental health issues. The information reported here will state 'No' mental illness as stated by the complainant on the complaint form. Some data is not reported by complainants regarding the demographic characteristics which will be highlighted alongside each sub-section.

Since this section is 'optional' while filling the complaint form, several complainants skipped this demographic section and did not provide any information. Some complaints were received via direct email, blue team or through written memorandum by the Agency which do not capture any demographic information regarding complainants. This caused a significant large number of missing information. Another reason for missing information is due to old complaint forms which did not capture all the information as required in the new complaint form. Notably, some complaints are filed by citizens on behalf of other individuals. Demographic information captured may not have information of the actual complainant but rather have information of those submitting the complaint form. Sub-sections below highlight demographic information for complainants from January 1st 2022 to June 30th 2022.

Complainant Gender

This sub-section provides information regarding the gender of complainants who were identified in closed civilian police complaints during this reporting period. Of the total 93 complainants, Male were 46 compared to 43 Female complainants. 3 anonymous complainants identified their gender as Female. 9 complainants listed in closed complaints did not record information about gender and among those 3 filed complaint anonymously.



Complainant Race & Ethnicity

Data on race and ethnicity will help identify population segments who were the target of police misconduct or generally were not happy with the police actions or response which lead them to file a grievance. The data may help understand if police officers are complying with civil rights law and will also help detect evidence of discrimination against certain population segments which can be useful information for policymakers in making informed decisions. As seen in figure 9, white complainants comprised of the largest percentage (approx. 40%). 31% of the complainants did not report on race while submitting complaint with the Agency. Individuals with both Hispanic and Non-Hispanic ethnicities had same percentage (approx. 31% each) while (approx. 38%) complainants did not identify information about ethnicity when they filed a complaint.

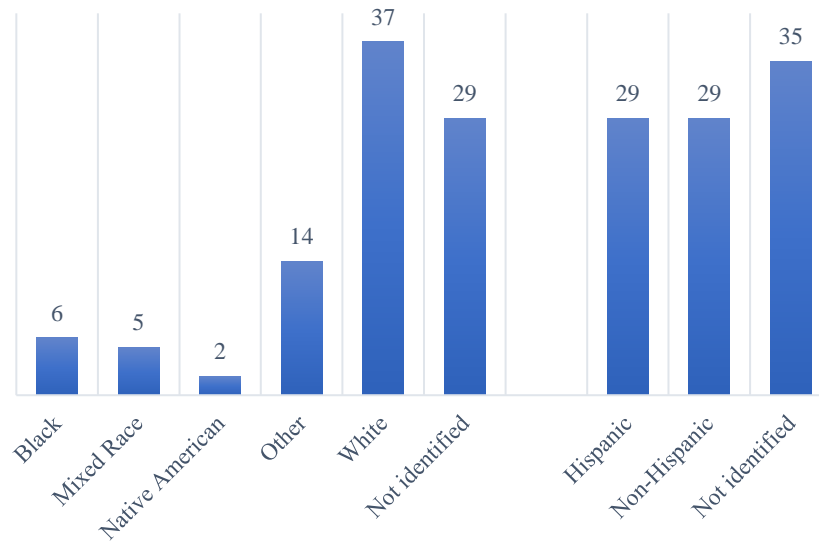


Figure 9. Complainants Race & Ethnicity
Data Source: IA Pro- January 1st 2022-June 30th 2022

Complainant Sexual Orientation

Per the CASA agreement, the Agency and APD are mandated to collect data regarding the sexual orientation of citizens to identify possible biases among specific population segments. Discrimination and harassment by law enforcement based on an individual's sexual orientation hinders the process of effective policing, breaks community trust and prevents officers from protecting and serving communities. For the complaint investigations completed during this period, approximately 39% of the complainants were identified as heterosexual while a significantly larger number (approx. 48%) of the complainants did not provide information regarding their sexual orientation.

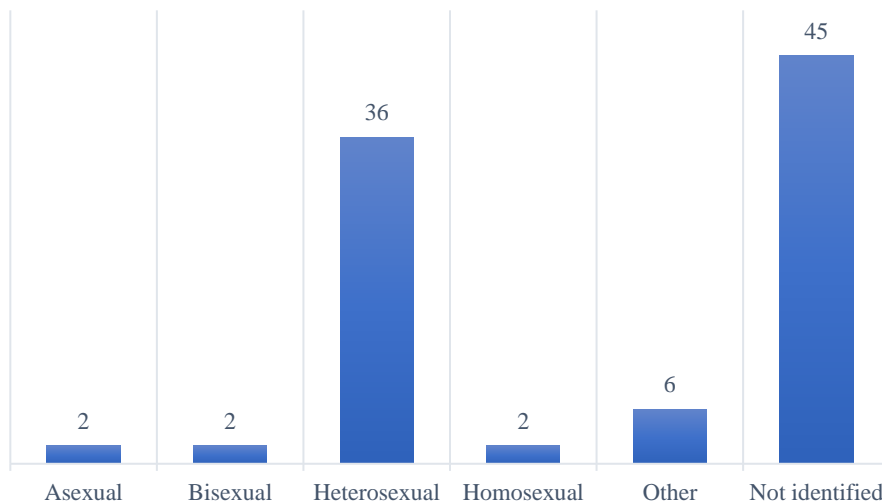
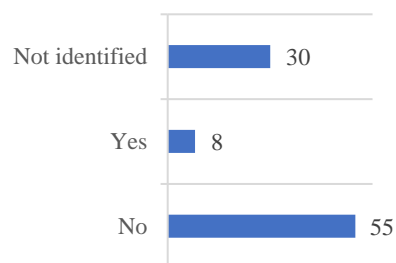


Figure 10. Complainants Sexual Orientation
Data Source: IA Pro- January 1st 2022-June 30th 2022

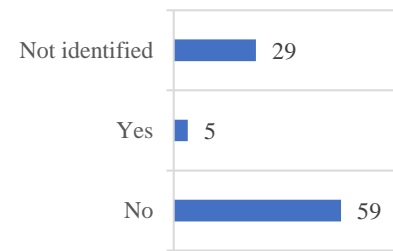
Complainant Mental Health Status

This sub-section provides information pertinent to mental health status of complainants. Paragraph 175 of the CASA states “APD and the Civilian Police Oversight Agency shall track allegations regarding misconduct involving individuals who are known to be homeless or have a mental illness, even if the complainant does not specifically label the misconduct as such”. The CPOA updated the complaint form to comply with the Department of Justice requirements by adding questions to determine if complainants experience mental health issues, struggled with homelessness or were homeless at the time of incident. For this reporting period, 8 complainants stated they were experiencing mental health issues while 55 reported ‘No’ mental health issues. 30 complainants did not report on this.



Complainant Housing Status

The information reported in this sub-section identifies whether the complainants were homeless at the time of interaction with the APD. 59 complainants stated they were not homeless when the incident occurred while 5 complainants stated they were homeless at the time of incident. Again, a significantly large count of 29 complainants did not report on this information.



Complainant Median Age

This sub-section highlights the median age of complainants identified in closed complaints during the first six months of 2022. 66 complainants reported on their age when submitting complaints with the Agency while 27 individuals did not report their age. The youngest complainant was 19 years old while the oldest was 73 years old. Figure 11 below provide details about complainants' age group for this reporting period.

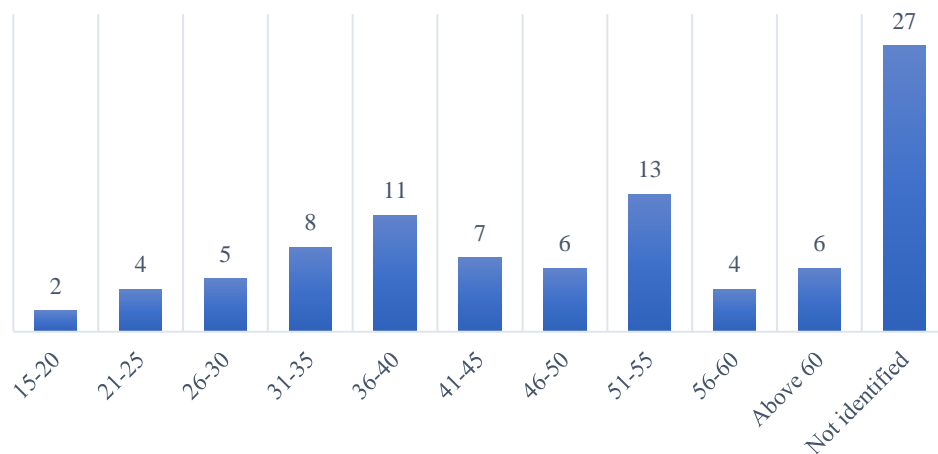


Figure 11. Complainants Median Age
Data Source: IA Pro- January 1st 2022-June 30th 2022

Section III. APD Use of Force Incidents

The information underlined in this section will report on the number of Use of Force incidents that were investigated by Internal Affairs Force Division (IAFD) during this reporting period and the CPOAB review of Level 3 Use of Force cases. There was a total of 233 Level 1 and 2 and 52 Level 3/Serious Uses of Force (SUOF) cases reported by IAFD to the CPOAB from the period beginning January 1st 2022 and ending June 30th 2022. Sub-sections below provide detailed information regarding area commands where these incidents occurred, call type associated with force events and serious uses of force cases that were reviewed by the CPOAB during this reporting period.

SOP 2-53 (Use of Force-Definitions) outlines the list of all events which will be classified among three force levels. All Level 3 force incidents will be identified as serious uses of force in this report. Different levels of force are defined as:

- **Level 1 Use of Force:** Force that is likely to cause only transitory pain, disorientation, and/or discomfort during its application as a means of gaining compliance.
 - a. This includes techniques that are not reasonably expected to cause injury, do not result in an actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing).
 - b. Shows of force, including: pointing a firearm, beanbag shotgun, 40-millimeter impact launcher, OC spray, or ECW at an individual, or using an ECW to “paint” an individual with the laser sight or utilizing a warning arc. A show of force is reportable as a Level 1 use of force.
 - c. Level 1 use of force does not include interaction meant to guide, assist, or control an individual who is offering minimal resistance.
- **Level 2 Use of Force:** Force that causes injury, could reasonably be expected to cause injury, or results in a complaint of injury.

- a. Level 2 use of force includes: i. Use of an ECW, including where an ECW is fired at an individual but misses; ii. Use of a beanbag shotgun or 40-millimeter impact launcher, including where it is fired at an individual but misses; iii. OC spray use including where it is sprayed at an individual but misses; iv. Empty-hand techniques (e.g., strikes, kicks, takedowns, distraction techniques, or leg sweeps); and v. Strikes and attempted strikes with impact weapons. This excludes strikes to the head, neck, throat, chest, or groin, with a beanbag shotgun or 40-millimeter impact launcher and strikes to the head, neck, throat, torso, or groin with a baton or improvised impact weapon, which are considered Level 3 uses of force.
- **Level 3 Use of Force:** Force that results in, or could reasonably result in, serious physical injury, hospitalization, or death.
 - a. Level 3 use of force includes: i. Use of deadly force; ii. Critical firearm discharges; iii. Use of force resulting in death or serious physical injury; iv. Use of force resulting in hospitalization; v. Strikes to the head, neck, throat, chest, or groin with a beanbag shotgun or 40-millimeter impact launcher and strikes to the head, neck, throat, torso, or groin with a baton or improvised impact weapon; vi. Use of force resulting in a loss of consciousness; vii. Police Service Dog bites; viii. Three or more applications of an ECW on an individual during a single interaction, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different officers; ix. ECW application on an individual during a single interaction for longer than 15 seconds, whether continuous or consecutive, regardless of the mode of application; x. Neck holds; xi. Four or more strikes with a baton or improvised impact weapon; and xii. Any Level 2 use of force against a handcuffed individual.

Level of Force Used by Area Commands

Among all use of force incidents, majority of the events occurred in southeast area command totaling 86 events. For southeast area command, level 1 force was investigated 26 times, level 2 force 49 times while level 3 force event was investigated 11 times during the reporting period. Valley area command saw the highest number of level 3 use of force incidents (14) during this reporting period. Note that IAFD does not investigate level 1 use of force and these are forwarded to the respective area commands. Prisoner Transport Center (PTC) is within valley area command's jurisdiction, however cases occurring at PTC are reported separately. Breakdown of force incidents that occurred during these six months by the area command for all levels of use of force is highlighted in the figure below.

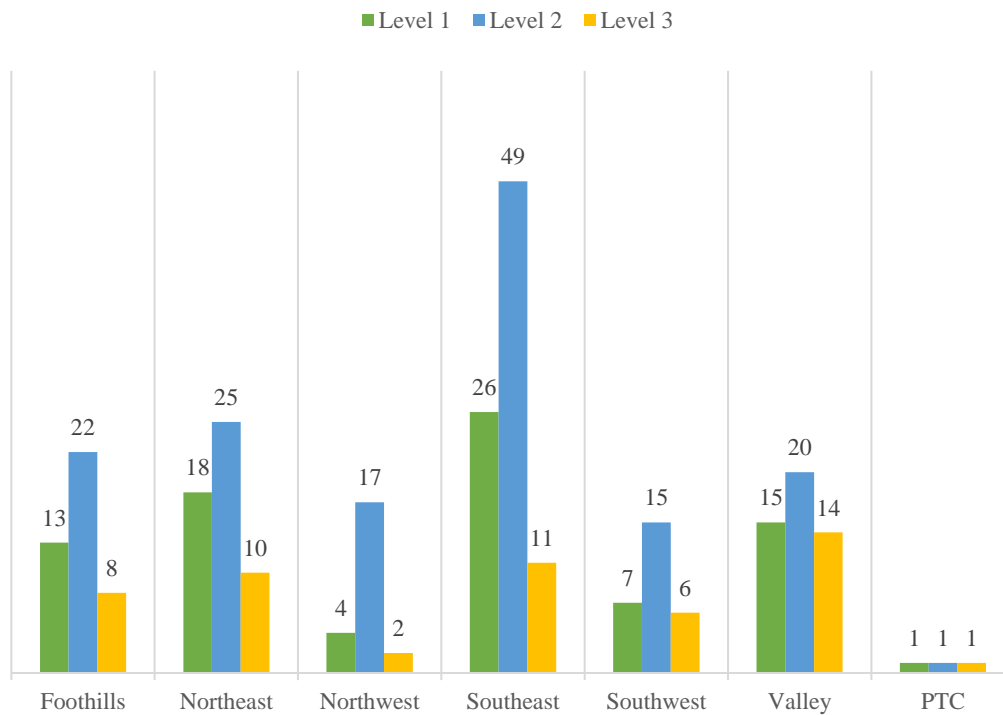


Figure 12. Level of force incidents by APD Area Commands
PTC: Prisoner Transport Center
Data Source: IAFD report to CPOAB- January 1st 2022-June 30th 2022

Type of Calls Associated with Force Event

For a total of 285 use of force cases during these six months, the information reported here provides call type associated with 281 incidents (4 missing). This sub-section will provide count of all call types which resulted in officer using some level of force against an individual(s). As seen in the table below, majority of the calls leading to a Use of Force event resulted from 'Family Dispute' and 'Disturbance'. Complete list of these calls by count is provided in the table below.

<i>Call Type</i>	<i>Count</i>	<i>Call Type</i>	<i>Count</i>
Family Dispute	49	BAIT Vehicle Theft	2
Disturbance	33	Burglary Commercial	2
Aggravated Assault/ Battery	28	Contact	2
Onsite Suspicious Person/Vehicles	20	Fight in Progress	2
Wanted Person	18	Theft/Fraud/Embezzlement	2
Suicide	17	Traffic Accident No Injuries	2
Suspicious Person/Vehicle	15	Traffic Stop	2
Shoplifting	13	Vandalism	2
SWAT	11	Welfare Check	2
Stolen Vehicle Found	10	DV Escort/Violation	1
Drunk Driver	8	Fire Call	1
Armed Robbery Commercial	7	Narcotics	1
Behavioral Health	7	Onsite Auto Theft	1
Child Neglect	4	Onsite Disturbance	1
Stabbing	4	Sex Offense	1
Auto Theft	3	Shooting	1
Burglary Residence	3	Shots Fired	1
Armed Robbery Individual	2	Traffic Accident Injuries	1
Auto/Car Jacking	2	TOTAL	281

Table 7. Call types associated with use of force event
Data Source: IA Pro- January 1st 2022-June 30th 2022

CPOAB Review of SUOF/Level 3 UOF cases

The CPOA Board during this reporting period reviewed 16 Serious Use of Force Cases. The CPOA was operating with an interim Executive Director who was not part of the FRB meetings where majority of the cases were presented. The interim Executive Director presented 4 SUOF cases to the Board during the month of May 2022. During the first three months of 2022, the cases were presented to the Board by the SUOF case manager Dr. William Kass who then resigned from the Board at the end of March 2022. FRB summary of the SUOF cases reviewed by the Board, the CPOA Executive Director and FRB findings and/or the Board's disposition of these cases is listed below.

1- APD Case # 19-0051831

The incident occurred on June 6th 2019. Officers #1 and Officer #2 were dispatched to a suspicious person call located at 1901 University Blvd NE (Crown Plaza). Comments on the call stated a male individual was walking around wearing only a white sheet, appeared to be under the influence of an unknown drug, and was soliciting sex. Officers located the individual in the southeast corner of the Circle K parking lot located at 2001 Menaul Blvd. NE. Officer #1 recognizes subject is under the influence of methamphetamine. Paramedics were immediately requested due to subject's condition. When rescue arrives, an EMT tells subject to get in the back of the ambulance. Subject enters the ambulance but then sits down on the stairs. An EMT tries to pull him into the ambulance while Officer #1 tries to push him in. Subject becomes combative and refuses to step further into the ambulance.

Use of Force:

Officers utilized empty hand tactics and an inadvertent neck hold to overcome active resistance.

Post Use of Force:

After the subject was placed into custody, he was placed onto a gurney and taken to the hospital for evaluation. Both officers sustained minor abrasions on their elbows and knees.

Subject sustained minor abrasions on his elbows and knees. There were no deficiencies nor misconduct identified.

- ✓ The CPOAB voted to approve the findings of the APD Force Review Board in this case.

2- APD Case # 20-0007132

The incident occurred on January 23rd 2020 at 10500 Benavides SW.

Subject refused to stop for officers and was running away. Subject suddenly stopped and turned toward officers while firing his handgun.

Use of Force:

Detective #1 perceived a deadly threat and fired his department issued rifle five times toward subject. His actions were not stopped and he continued to flee from officers. The use of force by Detective #1 was objectively reasonable. The force was reasonable, necessary, proportional and within APD policy.

The subject continued walking and fired at least three more times. Subject then stopped walking and looked back toward officers. Video from Air 2 showed subject fire at least one shot directly at officers. Air 2 warned the officers that subject was waiting to ambush them. Subject waited approximately 10 seconds before continuing running.

After being advised by Air 2 that it was safe to turn onto Pilar, Sergeant #2 drove the SUV onto Pilar with Officer #1 on the passenger side. Almost immediately after turning onto Pilar, Sergeant #2 stopped the SUV after Officer #1 saw subject on the north side of Pilar. Video from Air 2 captured subject raising his arm and firing a shot in the direction of Sergeant #2 and Officer #1.

Officer #1 saw subject point the gun and saw the muzzle flash. He perceived this as a deadly threat and fired his rifle twice at the subject.

Subject was struck in the neck once and fell to the ground. He stopped firing his handgun and no further shots were fired by officers.

The force used by Officer #1 was objectively reasonable and within APD policy.

Post Use of Force:

Subject was compliant when being taken into custody, no force was necessary to place him into handcuffs, nor in the transportation process.

No officers were injured during this incident. Subject sustained a gunshot wound to the right side of his neck. This laceration was not life threatening, he was released from UNMH after approximately 4 hours.

Policy Violation – No violations were identified.

Violation of Criminal Law – No violations were identified.

Constitutional Violation (criminal or civil) – No violations were identified.

Violation of Personnel Rules – No violations were identified.

Violation of Administrative rules or regulations – No violations were identified.

Tactics: No deficiencies or concerns were identified.

Training: No deficiencies or concerns were identified.

Policy: No deficiencies or concerns were identified.

Equipment: No deficiencies or concerns were identified.

Supervision: No deficiencies or concerns were identified.

- ✓ The CPOAB voted to approve the findings of the APD Force Review Board in this case.

3- APD Case # 20-0009417

The incident occurred on January 30th 2020 at 5301 St Joseph's Dr NW.

On January 30, 2020, at approximately 0930 hours, an individual called 911 to report her son, who was outside her home in violation of a restraining order. She reported he was ringing her doorbell. She said her daughter-in-law was also in the home with her granddaughter. Individual said her daughter-in-law also had a restraining order against the subject.

Officer #1 and Officer #2 were dispatched to 4309 Hodgin Ln. NW to investigate. While officers were en route, individual told the 911 operator subject had a knife and was trying to enter the home. Individual reported subject is mentally disabled, hallucinates and “Thinks the whole world is out to get him.” has a TBI and self-medicates.

Officer #2 observes subject walk on to the high school campus and squat next to a fence in the parking lot. After he confirmed a clothing description and charges, Officer #2 approached subject. Officer #2 asked subject to put his hands on his head and told him he needed to speak with him. Subject made a furtive motion mimicking the action of quickly pulling a weapon from his pocket.

Show of Force:

Officer #2 stepped back and briefly pointed his firearm at subject.

Officer #2 had the lawful objective to defend himself from the actions of another. The show of force was reasonable, necessary and a proportional response to subject acting as if he was about to produce a weapon.

While waiting for assisting officers, Officer #2 backed away from subject several times to create distance and a better reactionary gap (de-escalation). When Officer #1 arrived on scene, Officer #2 retreated even further from subject. However, subject suddenly stood up and advanced toward both officers. Officer #1 brought up her ECW and pointed it at subject.

Officer #1 had a lawful objective to protect herself and Officer #2 from subject. The show of force with the ECW was a reasonable, necessary and proportional response to subject aggressively walking toward officers.

Use of Force:

Subject ran toward Officer #2 in an apparent attempt to attack him. Officer #1 deployed her ECW to stop subject’s actions and the ECW was ineffective.

Officer #1 had the lawful objective to effect Subject’s arrest and to protect Officer #2 from subject’s attack. The use of the ECW was deemed reasonable, necessary, and a proportional force option.

Subject was non-compliant. Officer #1 observed subject reach into the back of his waistband before Subject again ran toward Officer #2.

Officer #1 again fires the ECW toward subject. The second firing of the ECW was also ineffective.

Officer #1 had the lawful objective to effect subject's arrest and to protect Officer #2 from subject's attack. The use of the ECW was deemed reasonable, necessary, and a proportional force option.

After the second firing of the ECW, subject continues his attack on Officer #2. Still fearful subject may be armed, Officer #2 performs a leg sweep to force subject to the ground. At the same time, Officer #1 grabs subject's right arm and assists in taking subject to the ground.

Both officers had the lawful objective to effect subject's arrest and to protect themselves from subject's attack. The use of the leg-sweep and Officer #1's assist in the takedown were deemed reasonable, necessary, and proportional force options.

After the officers forced subject to the ground, he continued to resist. Officer #1 completed a follow-up drive-stun to subject's lower back with the ECW. Subject's second attack on Officer #2, the leg-sweep and the follow-up drive-stun all occurred within a 5 second period.

Both officers had the lawful objective to effect subject's arrest and to protect themselves from subject's attack. This last use of the ECW by Officer #1 was deemed reasonable, necessary, and a proportional force option.

Post Use of Force:

After the application of the follow-up drive-stun, subject became compliant. Subject was found to be in possession of a folding pocket knife.

The responding crime scene specialist noted in her report that subject had minor abrasions on his right temple, his left cheek and near his arm pit. She noted the ECW prongs did not

penetrate his skin due to the heavy jacket he was wearing and a second jacket worn under the heavy jacket.

Officer #1 complained of hip pain after the incident and was directed to contact Medcore. Officer #1's sergeant arrived to conduct the on-scene investigation and appropriately contacted IAFD to conduct a Level 3 use of force investigation.

Policy Violation – No violations were identified.

Violation of Criminal Law – No violations were identified.

Constitutional Violation (criminal or civil) – No violations were identified.

Violation of Personnel Rules – No violations were identified.

Violation of Administrative rules or regulations – No violations were identified.

Tactics: No deficiencies or concerns were identified.

Training: A deficiency was noted during the IAFD chain of command review of this case.

Policy: No deficiencies or concerns were identified.

Equipment: No deficiencies or concerns were identified.

Supervision: No deficiencies or concerns were identified.

- ✓ The CPOAB voted to approve the findings of the APD Force Review Board in this case.

4- **APD Case # 20-0031830**

The incident occurred on April 16th 2020 at 297 La Plata Rd NW.

On April 16, 2020 at 2056 hours officers were dispatched to Circle K, located at 5605 4th St NW in reference to a report of two individuals trespassing on the property. Both parties had been previously served with a criminal trespass notice. The responding field officer checked NCIC and both individuals showed outstanding warrants for their arrest. NCIC showed one subject had a possible misdemeanor warrant and second subject showed multiple felony warrants. The NCIC information indicated second subject should be considered armed and dangerous.

When officers arrived at the Circle K, they were told both subjects had left walking northbound. Officers checked the surrounding area and located the pair near 4th and Solar Rd NW. Subjects emerged onto 2nd St, officers pulled behind them in their vehicle. When he saw officers, subject one dropped a backpack he was carrying and ran south along the ditch before then running west.

Officers took subject two into custody without incident. After being placed in the patrol car, female subject positively identified the male subject. Air Support arrived in the area as subject one ran from officers. They were able to track subject as he ran west. Air Support maintained a visual as subject attempted to hide in an irrigation ditch. A field lieutenant told officers to hold the perimeter and to standby for K9. When Air Support advised that subject did not respond to the K9 warnings, the Acting K9 lieutenant authorized K9 Sergeant #1 to utilize the PSD. The search team moved from a yard onto the ditch bank. From there, they observed subject approximately 50 feet away apparently trying to hide in a grassy area.

K9 Sergeant #1 authorized K9 Officer #2 to release his PSD. The PSD located subject and proceeded to “guard and bark.” Subject did not respond to the PSD’s barking.

The PSD was recalled and further K9 warnings were given. Subject was warned that the dog found him and that he needs to surrender. Subject did not respond.

Use of Force:

Subject did not react to the PSD. He remained still and made no indication he was going to comply with commands to surrender. Because subject did not respond, K9 Sergeant #1 deployed a NFDD to elicit a response from subject. The NFDD landed several yards north and east of subject’s position.

K9 Sergeant #1 had the lawful objective to effect subject’s arrest. Subject was non-compliant with officer commands to stand up with his hands clear. The use of the NFDD was found to be reasonable and within APD policy.

K9 Officer #1 deployed his PSD. The PSD found subject and proceeded to bite him. Subject immediately called out asking officers to remove the dog. After subject complied

with orders to show his hands, officers approached him and K9 Officer #1 removed the PSD from subject's right arm. Approximately 46 seconds elapsed between the PSD's initial contact and when K9 Officer #1 removed the PSD.

The use of the PSD was found to be reasonable and within APD policy.

Post Use of Force:

After the PSD apprehension, subject complied with all orders and was taken into custody without further incident.

No officers were injured. Subject had lacerations to his right triceps, right thigh and to the left side of his forehead.

Policy Violation – No violations were identified

Violation of Criminal Law – No violations were identified

Constitutional Violation (criminal or civil) – No violations were identified

Violation of Personnel Rules – No violations were identified

Violation of Administrative rules or regulations – No violations were identified

Tactics: No deficiencies or concerns were identified.

Training: A deficiency was noted during the IAFD chain of command review of this case.

Policy: No deficiencies or concerns were identified.

Equipment: No deficiencies or concerns were identified.

Supervision: No deficiencies or concerns were identified.

- ✓ The CPOAB voted to approve the findings of the APD Force Review Board in this case.

5- APD Case # 20-0042176

The incident occurred on May 26th 2020 at 7440 Jim McDowell Rd NW.

On May 26, 2020, at 0936 hours, a manager at the Westside Emergency Housing Center called police to report a disturbance involving one of their clients. The manager reported subject was yelling, punching walls and refusing to leave. The manager requested officers

respond and remove subject. Upon arrival, Officer 1 contacted the manager who requested subject be removed from the property. Officer 1 contacted subject, explaining staff wanted him to leave the property. Subject insisted he was wronged by the manager and refused to leave. Officer 1 tried for several minutes to convince subject to leave. Subject told Officer 1 to arrest him and that he was not leaving.

Use of Force:

In his report, Officer 1 stated he grabbed subject's right wrist hoping that he could escort him from the center using only low-level control tactics. When Officer 1 grabbed subject's wrist, he tried to pull his wrist away. Using his left hand, Officer 1 then grabbed subject's upper arm and pulled him from the bunk.

Officer 1 had the lawful objective to effect subject's detention and escort him from the property. IAFD found the grab (LLCT) and the takedown reasonable and within APD policy.

After struggling to keep subject in the chair, Officer 1 and the staff members moved him back to the floor. While on the floor and during the next 16 minutes, subject would again suddenly kick or twist his body 12 times. Each time subject did this, Officer 1 had to use LLCT to control him.

Officer 1 had the lawful objective to effect subject's detention and escort him from the property. IAFD found the low-level control tactics reasonable and within APD policy.

Both officers then picked subject up under his arms in order to carry him to the vehicle. Subject screamed in apparent pain but refused to walk on his own. The officers set subject back down on the floor. Officer 1 told subject he was going to jail and asked if he would walk on his own or make officers carry him. Subject did not respond. Officer 1 tightened the PRS strap to pull subject's feet close to his body. The officers and a staff member then picked subject up and walked with him approximately 20 feet before setting him back down.

Officers 1 and 2 were affecting subject's lawful arrest. The carrying of subject (LLCT) was found to be reasonable and within APD policy.

Post Use of Force:

After being placed in the patrol car, subject continued complaining about how center staff treated him and how the officers did not help him.

Subject had a pre-existing shoulder injury that he alleged was made worse during the use of force. While struggling with Officer 1, subject struck Officer 1 in the groin.

Policy Violation – a potential violation was identified

Officer 1 → SOP: 2-52-6(F)(1)(C) – Duty to Provide Medical Attention and Transportation

The former IAFD Deputy Commander noted that on multiple occasions, subject requested transport to a hospital but officers did not take him. Subject was eventually cleared by MDC medical but the reason for not transporting subject to a hospital was not documented.

An investigation was opened to address this concern.

Violation of Criminal Law – No violations were identified

Constitutional Violation (criminal or civil) – No violations were identified

Violation of Personnel Rules – No violations were identified

Violation of Administrative rules or regulations – No violations were identified

Tactics: No deficiencies or concerns were identified.

Training: A deficiency was noted during the IAFD chain of command review of this case.

Policy: No deficiencies or concerns were identified.

Equipment: No deficiencies or concerns were identified.

Supervision: No deficiencies or concerns were identified.

- ✓ The CPOAB voted to approve the findings of the APD Force Review Board in this case.

6- **APD Case # 20-0055810**

The incident occurred on August 4th 2020 at 3500 Coors Blvd SW.

On August 4, 2020, at 1021 hours, a field officer observed a vehicle stopped on the side of the Edith Blvd near Indian School Rd. The officer ran the license plate and discovered the plate was registered to a stolen vehicle. The officer initiated a traffic stop near Edith Blvd and Prospect Rd at approximately 1023 hours. The driver fled north in the stolen truck.

The initiating officer disengaged. Air 5 called out that it was en route to assist. At 1024 hours, an officer observed the vehicle on SB I-25 travelling at a high rate of speed. A minute later a field lieutenant told all units to back off.

At 1032 hours, as the stolen vehicle was driven through the Valley area command, the same field Lieutenant authorized the use of spike belts and Air 5 called out potential areas for spike belt deployment. From the point the driver fled the traffic stop to the point he was taken into custody, approximately forty minutes elapsed.

As the driver reached the area of Coors and Rio Bravo, he turned into the parking lot of the Imax theater and proceeded to smash through a gate east of the theater onto private property. The driver drove south toward Gun Club Rd where he crashed through another private gate. The subject drove west on Gun Club Rd past Coors and into a residential area. He drove into an area that forced him to cross or turn onto Gun Club Rd. As he crossed Gun Club to head north, he drove over a spike belt positioned at Karrol Rd and Gun Club. With the two driver side tires disabled, the driver continued north and exited onto Dennis Chavez Rd. A State Police vehicle performed a Pursuit Intervention Technique (PIT) forcing the truck to a stop east of Loris Dr SW. The driver abandoned the truck and ran north.

Use of Force:

Subject jumped a guard rail and a wire fence with Detective 1 and a State Police detective following close behind on foot. Detective 1 warned subject to stop or force would be used against him. Subject ignored the command and continued running. Subject tripped after jumping the wire fence and fell to the ground. He recovered and continued running.

Detective 1 caught up with subject and pushed him to the ground. As he was falling to the ground, a State Police detective straddled subject and told him to turn onto his abdomen. Detective 1 was effecting the lawful arrest of subject. The takedown was objectively reasonable and within APD policy.

After the takedown, subject shifted his weight to his side and looked up at officers. The State Police officer ordered subject to put his hands behind his back. Subject tensed his arms and would not allow officers to move them behind his back. Detective 1 grabbed subject's right arm to stop him from reaching for possible weapons. Detective 1 stated he had to overcome some resistance holding subject's arm before subject rolled over and allowed Officer 1 to handcuff him.

Detective 1 was effecting the lawful arrest of subject. The empty hand control and resisted handcuffing were objectively reasonable and within APD policy.

Post Use of Force:

Subject was compliant after officers handcuffed him.

No officers were injured. Subject did not initially complain of injury.

The on-scene field sergeant asked subject if he was okay. Subject responded, "I'm okay I think." After he was photographed on scene by a CSS, subject complained of pain in one of his fingers and in his right shoulder. He was transported to Lovelace hospital where doctors discovered the finger and his right clavicle were fractured. Subject declined to speak with an IAFD detective so it is unclear how he sustained his injuries. IAFD determined the injuries were likely sustained during police intervention.

Policy Violation – The IAFD detective noted there was no OBRD video documenting the spike belt deployment. A misconduct investigation was initiated.

Violation of Criminal Law – No violations were identified.

Constitutional Violation – No violations were identified.

Violation of Personnel Rules – No violations were identified.

Violation of Administrative rules/regulations – No violations identified.

Tactics: No deficiencies or concerns were identified.

Training: No deficiencies or concerns were identified.

Policy: No deficiencies or concerns were identified.

Equipment: No deficiencies or concerns were identified.

Supervision: No deficiencies or concerns were identified.

- ✓ The CPOAB voted to approve the findings of the APD Force Review Board in this case.

7- **APD Case # 20-0041385**

The incident occurred on May 22nd 2020 at 3103 Erbbe St NE.

On May 22, 2020 at 2314 hours, Officers #1 and #2 were dispatched to 3103 Erbbe St NE to investigate a disturbance. The caller reported a male and female in a loud disturbance that sounded violent. While Officers were enroute, the caller reported hearing a female crying and screaming in the home. The caller additionally reported loud banging coming from the home as Officers arrived. An additional comment indicated there may be firearms in the home. Two weeks prior a dog was killed with a rifle by a juvenile linked to the target address.

Upon arrival Officers contacted a woman sitting on the front porch. The woman told officers her daughter was inside the home causing an argument. Officers could still hear a female yelling from inside the home. The daughter was later identified as subject 1. Officer 1 asked the woman to stay outside, so officers could talk to the other involved subjects inside. The woman told officers, "Yeah, go ahead" while pointing at the front door of the home. Officers made it a few steps into the home when three males exited a bedroom into the living room asking if officers had a warrant. Subject 1 came out a few seconds later and started yelling at officers.

Use of Force:

The evidence does not support the claim that Officer 1 was about to be battered by Subject 1 (via the tablet). Therefore, there was no lawful objective for Officer 1 to strike the tablet

out of subject's hand. Also, there is a discrepancy in the manner in which Officer 1 described this action. After Officer 1 slapped the tablet, subject 1 began to lift her right hand up from her waist. As she moved her hand up, Officer 2 grabbed her wrist and told her, "Don't go there." Subject moved her hand backwards and Officer 2 let go of her wrist. This grab was classified as low-level control tactics.

This use of low-level control tactics was objectively reasonable and within APD policy.

Officer 1 briefly turned away to address the other individuals in the room. When he did this, subject 2, climbed over a couch and stepped between subject 1 and Officer 2 and stood just inches away from Officer 2. Officer 1 then grabbed subject 2 left arm and pulled him away from Officer 2. Subject 2 pulled away from officer 1 as he attempted to maintain control of his arms. Subject 1 stepped between Officers and subject 2 to keep them from taking him. Officer 1 was able to turn her away from him using her momentum against her. Subject 1 then grabbed onto Officer 1's uniform. Officer 1 pulled her hand off of him and she pulled herself from his grasp.

This was within policy and objectively reasonable.

Sgt. 1 then entered the home and witnessed the struggle between Ofc 1, 2, and the subjects. Sergeant 1 observed officers attempting to detain subject 1, while subject 2 was attempting to free her from officer's control. Sgt. 1 advised subject 2 to step aside and speak with him, however he ignored him and continued to interfere. Sgt. 1 then grabbed subject 2 left arm and pulled him away to allow officers to take subject 1 into custody. Sgt. 1 placed subject 2 into an "escort position", (C clamp to the wrist and other hand to the back of the elbow). Subject 2 refused to place his other hand behind his back, so Sgt. 1 moved subject 2 to a position facing a wall of the home. Ofc. 1 assisted Sgt. 1 in handcuffing him. He was placed into custody and removed from the home by Sgt. 1.

The application of force was reasonable and within APD policy.

Officer 1 attempted to grab subject 1 left arm but she moved it. Officer 1 was able to get a C-clamp grip, then transitioned to an arm bar. This brought her to a facedown position on

a piece of furniture. Subject 1 then grabbed onto Officer 1's duty belt as he instructed her to let go.

Officers did not have a lawful objective to arrest subject 1 for assault on a police officer, battery on a police officer, and disorderly conduct as the elements of those alleged crimes did not occur until after the takedown. The arm-bar was not reasonable and not within APD policy.

Subject 1 was now face down on the furniture and actively resisting as officers placed her in handcuffs. Officers 4 and 5 joined Officers 1 and 2 to assist in the arrest. Officer 1 utilized a two-hand grip on her left arm and was able to pull it out from under her body toward the middle of her back for handcuffing. Officer 2 grasped her left arm as he felt her stiffen her arm. Officers 4 and 5 were able to control subject right arm as she attempting to tuck it under her body. Officers 4 and 5 were able to overcome her resistance and move the right hand to the middle of her back to complete the arrest.

Once subject was on the ground and actively resisting and committed a battery against Officer 1 the force utilized was reasonable and within APD policy.

At the vehicle subject 1 refused to get into the patrol vehicle by tensing her body. Officer 4 placed his left hand on her head and right hand on her arm, then used his hips to push her into the vehicle. As Officer 4 did this, Officer 3 grabbed her right leg and lifted it to assist her into the vehicle. Sergeant 1 lifted her left leg and pushed her into the vehicle. Officer 5 attempted to lift subject 1 right leg, but released his grip to assist her down by holding her right arm.

Officers had the lawful objective to effect the arrest subject 1 and the force utilized was reasonable and within APD policy.

Post Use of Force:

Both subjects were evaluated by paramedics on scene. Subject 2 was released at the scene. Subject 1 was transported to Kaseman Hospital, medically cleared and then booked into MDC.

Sergeant 1 sustained a minor abrasion to his right elbow. Subject 1 had bruising throughout the inner portion of her left arm/inner upper right arm, a small scratch to her inner left forearm and several scratches on her hands and marks to the wrist. Subject 2 also had visible marks to his wrists consistent with handcuffing.

Policy Violations – potential violations were identified.

SOP: 1-1-4. D.16

D. On-Duty Conduct 16. Police officers and Department employees are expected to conduct themselves in a professional manner at all times. Personnel are discouraged from using any language that could be considered profane, derogatory, or disrespectful toward any person. In certain situations, profanity may be acceptable, subject to review on a case-by-case basis.

SOP: 2-52-4. A.1

Officers shall first use de-escalation techniques when feasible to gain the voluntary compliance of an individual to reduce or eliminate the need to use force.

Former IAFD Deputy Commander

SOP: 2-57-4. D.2

The IAFD Commander shall review the report to ensure that it is complete and that, for administrative investigations, the findings are based upon the preponderance of the evidence.

Violation of Criminal Law – No violations were identified.

Constitutional Violation – No violations were identified.

Violation of Personnel Rules – No violations were identified.

Violation of Administrative rules/regulations – No violations identified.

Tactics: No deficiencies or concerns were identified.

Training: In addition to the IAR, Officer 1's lack of de-escalation and his lack of professionalism were identified as a training deficiency.

Policy: No deficiencies or concerns were identified.

Equipment: Officer 5's OBRD battery died while on scene which he reported immediately and was issued a backup by his sergeant.

Supervision: IAFD recognized that there were issues with how Sergeant 1 controlled the scene after subject 1 was handcuffed and out of the home. A training request was submitted.

- ✓ The CPOAB voted to approve the findings of the APD Force Review Board in this case.

8- APD Case # 20-0085317

The incident occurred on October 21st 2020 at 2424 Louisiana Blvd NE.

10/21/2020 at 1323 hours Officers 1, 2 and Acting Sergeant 1 were dispatched to 2424 Louisiana Blvd NE (Coronado Mall) in reference to an Aggravated Assault call. The caller stated that an unknown male had yelled at him and attempted to stab him with a box cutter. The caller stated that the male then threatened another man and his child. The caller informed dispatch of the physical description of the offender and an updated location of the offender – which was behind the business near a large electrical box

A force array was established. Officer 1 deployed with an ECW, Officer 2 deployed with a rifle, and Acting Sergeant 1 deployed with a 40mm launcher. Officers located the suspect near the electrical boxes as described by the caller. Acting Sergeant 1 called out, "Albuquerque Police. Let me see your hands" (two times).

Officers contacted Subject who was compliant at first and followed officers' orders to walk back to officers and get on his knees. Once in a kneeling position (facing away from officers) he was informed that he was "detained". Subject stated that he did not do anything wrong, stood up, and began to collect his items off the ground while refusing commands to place his hands-on top of his head. Acting Sergeant 1 warned Subject that he would be "tased" if he did not follow the commands to "Stop!". Subject told officers to "shoot" him multiple times and continued collecting his belongings.

Use of Force:

During this Acting Sergeant 1 and Officer 1 walked a few steps toward subject. Acting Sergeant 1 raised her 40 Millimeter launcher and pointed it at subject's lower body. The perception of Acting Sergeant 1 was that she was at a "low ready" and did not point the weapon at subject. OBRD evidence indicated that this was a Show of Force (SOF). The SOF was objectively reasonable and within APD Policy.

Subject refused to follow commands from officers to stop and continued to collect his belongings. Acting Sergeant 1 gave an order for Officer 1 to deploy his ECW. She stated, "Tase him" to Officer 1. Subject was actively resisting by leaving the scene and refusing to follow the commands of officers. Officers had probable cause to arrest subject for a violent felony.

This order to use force was objectively reasonable and within APD Policy.

Officer 1 then again yelled "Taser, Taser, Taser" and deployed the ECW in standoff mode from a distance of approximately ten feet. Subject was impacted by the ECW and fell onto his left side. Officer 1 then gave the warning, "Stop or you are gonna get tased again." Subject then stood up and swung his jacket around to separate himself from the probes. The UOF was objectively reasonable and within APD Policy.

After the warning that the ECW would be utilized again. Officer 1 deployed his ECW a second time as subject stood up to his feet and was swinging his jacket horizontally side to side. Acting Sergeant 1 told subject "get on the ground." The ECW probes did not appear to have any neuro muscular incapacitating effects on subject, as he continued to walk away while swinging his jacket.

This UOF was objectively reasonable and within APD Policy.

Acting Sergeant 1 then deployed a 40 Millimeter impact launcher at subject as he was walking away. Acting Sergeant 1 was approximately twenty to twenty-five yards away

from subject at this point and stated that she thought that she struck him in the lower right abdomen area (as he was partially turned away from her).

IAFD found that the deployment of the 40-millimeter impact launcher was within policy based off the imminent and immediate threat posed by subject. IAFD cited that subject, “turned and faced them while flailing his arms around and was perceived be an imminent and immediate threat to officers.” However, at the time of the 40-millimeter impact launcher deployment – Subject was not facing officers or flailing his jacket. He was walking away.

Subject was not an imminent threat at the time of deployment – therefore this application of force would be out of policy.

Subject ran south in the parking lot and officers followed. Acting Sergeant 1 yelled out “stop or you will be 40ed again.” Acting Sergeant 1 did bring up the 40 mm launcher and pointed it towards subject. She stated that she did not acquire a sight picture and was running and did not consider this a Show of Force. IAFD classified this as a Show of Force. This UOF was found to be objectively reasonable and within APD policy.

Officer 1 then deployed the ECW at subject. The ECW struck subject and caused neuromuscular incapacitation. Subject was at a slow jogging pace upon deployment and was approaching a downward slopped section of landscape gravel when the ECW struck him. There was an additional drop of about two to three feet to a lower level parking lot. Subject’s jogging momentum and ECW impact carried him into this lower level causing him to land on his face and front of this body. Subject sustained serious injuries from the impact and was bleeding from his head.

This application of force was found to be out of policy and not objectively reasonable.

Acting Sergeant 1 ordered Officer 1 to deploy the ECW.

This order to use force was not within policy or objectively reasonable.

Post Use of Force:

Once subject was down from the ECW deployment he was no longer actively resisting/fleeing. Subject sustained a significant injury due to his uncontrolled fall and was asking for help.

No injuries were reported by officers. The subject did sustain ECW probes impact, injury to his face, and abrasions to his arm.

Policy Violation – potential policy violations were identified.

Officer # 1

SOP: (2. 54..5. C.2.g ECW Restrictions)

SOP: (2.54.5.C.2.h ECW)

SOP: (2.54.3.B.2 ECW)

Acting Sergeant # 1

SOP: (2.54.5.C.2.g ECW)

SOP: (2.54.5.C.2.h ECW)

Violation of Criminal Law – No violations were identified.

Constitutional Violation – No violations were identified.

Violation of Personnel Rules – No violations were identified.

Violation of Administrative rules/regulations – No violations identified.

Tactics: No deficiencies were identified.

Training: No deficiencies were identified.

Policy: No deficiencies were identified.

Equipment: No deficiencies were identified.

Supervision: No deficiencies were identified

- ✓ The CPOAB voted to approve the findings of the APD Force Review Board in this case.

9- **APD Case # 21-0002324**

The incident occurred on January 9th 2021 at 6300 Central Ave SE.

On January 9, 2021, at approximately 1114 hours, Officers 1 and 2 were patrolling in the Southeast area command and observed a male subject running from the Circle K convenience store located at San Pedro and Central. Subject was being chased by the store cashier who indicated to officers that subject had stolen items from the store. After circling the block, officers located subject walking eastbound on the first street south of the Circle K. Officers detained subject at Cochiti and Florida. Officers transported subject back to the Circle K. The manager did not want to press charges for the shoplifting. However, while identifying subject, they learned he had outstanding felony warrants for his arrest. Officers arrested subject on the warrants and transported him to the Prisoner Transport Center (PTC).

While at the PTC subject was cleared for booking by the on-site medic. Once cleared, subject sat on a bench that was closest to the exit. As the arresting officer spoke with the PTC booking officer, subject ran out of the PTC with his hands still cuffed behind his back

Use of Force:

Officer 3 had a separate arrestee at PTC and observed subject run out the doors. Officer 2 and Officer 3 ran after subject. Subject ran south on the sidewalk toward Roma Ave. At the corner of 4th St and Roma Ave, subject entered the roadway and ran eastbound. Officer 3 closed the distance to subject just after subject passed the midpoint of the intersection. Without providing a warning, Officer 3 tackled subject and both fell to the ground. Subject's face struck the asphalt when he fell.

IAFD found that although Officer 3 had a lawful objective to stop subject's escape, the force was found out of policy because Officer 3 did not sufficiently explain why the takedown was the minimum amount of force necessary and because Officer 3 did not provide a warning that force was impending.

Post Use of Force:

Subject was placed in shackles, evaluated by paramedics and transported to Lovelace Downtown by ambulance. Subject was then transported to MDC where he was booked without further incident. Subject sustained abrasions to his left cheek, his chin, and his left knee. He also complained of pain in his left shoulder. Officer 3 scraped his knees but due to layers of clothing photos were not taken.

Policy Violation – violations were identified.

Officer 1

SOP: 1-1-4(B)(6) – Compliance with Laws, Rules, and Regulations

This SOP was used to address a possible failure to follow SOP 2-71-3B2 which states a pat down may only be conducted when the officer has a reasonable, articulable belief that a person may be presently armed and dangerous.

SOP: 2-52-6(A)(5) – General Procedures

In situations when the individual is forced into a face down position, officers shall release pressure/weight from the individual and position the individual on their side or sit them up as soon as it is safe to do so.

Officer 3

SOP 2-52-4A1a states,

- A. Officers shall first use de-escalation techniques when feasible to gain the voluntary compliance of an individual to reduce or eliminate the need to use force.
 - a. Among these techniques are the use of advisements, warnings, and verbal persuasion as discussed in SOP – Use of Force – De-escalation.

SOP 2-52-4C1 states,

- 1. Force is necessary when no reasonable alternative to the use of force exists. When force is necessary, officers shall use the minimum amount of force required that is reasonable.

Violation of Criminal Law – No violations were identified.

Constitutional Violation – Officer 1 conducted a pat-down with no articulable reason to believe the individual was armed and dangerous.

Violation of Personnel Rules – No violations were identified.

Violation of Administrative rules/regulations – No violations identified.

Tactics: No deficiencies were identified.

Training: No deficiencies were identified.

Policy: No deficiencies were identified.

Equipment: Deficiencies were identified.

On the day of the incident, the PTC doors were malfunctioning. The doors opened without requiring a keycard. This allowed subject to push the door open himself.

Supervision: No deficiencies were identified.

- ✓ The CPOAB voted to approve the findings of the APD Force Review Board in this case.

10- APD Case # 21-0009559

The incident occurred on February 4th 2021 at 804 Sandy Dr NW.

Officers #1 and #2 were dispatched to a “Suicide” Call at a residence (804 Sandy Drive Nw). The caller reported that her 15-year-old son (subject) was “banging his head on the walls” of the home and “tried to run out of a second story window”. The caller reported that her husband was holding subject down and that subject was kicking him. Comments stated that subject suffers from ADHD and has not taken medications and that the caller was afraid he would be aggressive towards officers

Upon arrival Officers #1 and #2 were invited inside and spoke with the caller. Officers proceeded upstairs and contacted subject in his room. Subject confirmed his suicidal thoughts however was not initially receptive to help from officers. Subject initially told officers that he did not want to go to the hospital.

Use of Force:

Officers determined that subject required a mental health transport. Officers informed subject of the mental health transport. Officer 1 grabbed subject's right arm and stopped his forward movement. Subject pulled away. Officer 1 again reacquired her grip as Officer 2 grabbed subject's left arm as he jerked his body around trying to get away. Officer 1 was able to place handcuffs on subject as he tried to move forward and away from officers toward the door.

Officers had a lawful objective to transport subject to the hospital for an emergency mental health evaluation whether voluntary or involuntary under 43-1-10. The force was reasonable and within APD policy.

Subject began to kick the inside of the police vehicle. Once removed from the police unit subject attempted to run as officers held onto him Sgt. 1 then grabbed subject's left leg, and pulled it backwards. Officers slowly lowered subject to the ground and applied the PRS. Once in a PRS subject began to spit toward officers when placed back into a patrol vehicle.

Officers had a lawful objective to detain subject for a mental health evaluation. The takedown was reasonable and within APD policy.

Post Use of Force:

Subject was transported by ambulance for the mental health evaluation. Subject was physically cooperative with the process.

No injuries were sustained by officers and/or subject.

Policy Violation – violations were identified.

Violation of Criminal Law – No violations were identified.

Constitutional Violation – No violations were identified.

Violation of Personnel Rules – No violations were identified.

Violation of Administrative rules/regulations – No violations identified.

Tactics: No deficiencies were identified.

Training: A training deficiency was identified.

IAFD investigation found Officer 1 was lacking in her CIT skills upon first contact with Subject. Officer 2 took over with communication and was more successful in the practice of CIT.

A training request was made by the IAFD detective for Officer 1 for additional CIT training.

Policy: No deficiencies were identified.

Equipment: No deficiencies were identified.

Supervision: No deficiencies were identified.

- ✓ The CPOAB voted to approve the findings of the APD Force Review Board in this case.

11- APD Case # 18-0105978

The incident occurred on November 4th 2018 at 930 Louisiana Blvd SE.

A caller heard arguing near apartment #83, then heard a single gunshot. A second caller advised a male, approximately 17-18 years old was standing in the parking lot holding a gun. Officer #2, Officer #1, and Sergeant #1 began walking toward the middle of the complex's parking lot. They noticed a male in the parking lot with a gun walking toward them. Officer #2 told subject to "Show me your hands". Officer #1 then stated aloud, "He is pointing it at us". All three officers took cover behind barriers nearby, Officer #1 and Sgt. #1 sought concealment behind a bush and Officer #2 sought cover behind a dumpster with an enclosure.

Use of Force:

Officer #2 fired a single shot from his handgun at subject. Subject fell to the ground. Subject was on the ground for a short period of time. He stood up and began walking around, appearing to look for his firearm. He then began walking towards his firearm. Officers gave subject multiple commands to "Stop" and "Don't do it." Subject grabbed his

firearm and once again pointed it at officers. Officer #2, Officer #1, and Sergeant #1 fired multiple shots at subject. Total of 21 rounds fired by APD Officers.

The lethal use of force by Officer #2, Officer #1 and Sergeant #1 was deemed objectively reasonable and within APD policy.

After backup officers arrived on scene, an arrest team was assembled to place subject into handcuffs.

Sergeant #2 held on subject with a rifle until the arrest team made contact.

Officer #3 and Officer #4 were assigned as lethal coverage on the arrest team.

Officer #3 and Officer #4 pointed their rifles at subject until he was placed into handcuffs.

The show of force by Officer #3, Officer #4 and Sergeant #2 was deemed objectively reasonable and with APD policy.

Post Use of Force:

Subject sustained three gunshot wounds, one in the chest, one in the lower back and one in the pelvis. He was deemed deceased on scene by OMI. No officers were injured in this incident.

Policy Violation – No violations were identified.

Violation of Criminal Law – No violations were identified.

Constitutional Violation (criminal or civil) – No violations were identified.

Violation of Personnel Rules – No violations were identified.

Violation of Administrative rules or regulations – No violations were identified.

Tactics: No deficiencies were identified.

Training: A training deficiency was noted in regards to Sergeant #1 covering officers with his firearm. A training request was sent to the Academy.

Policy: No deficiencies were identified.

Equipment: No deficiencies were identified.

Supervision: No deficiencies were identified.

- ✓ The CPOAB voted to approve the findings of the APD Force Review Board in this case.

12- APD Case # 19-0077270

Interim Executive Director Diane McDermott provided an overview and a list of materials that the CPOA Board had received related to OIS case 19-0077270. The case had been reviewed previously by the CPOAB. She also read the former CPOA Executive Director's review and findings letter for OIS case 19-0077270 and noted that the date of incident on the letter was inaccurate. The correct date of incident for OIS case #19-0077270 was August 22nd 2019. The CPOAB voted to request the Chief to provide a written response as requested in the initial Board approved letter dated August 12, 2021 (see attached *Appendix III-20*).

13- APD Case # 21-0063380

CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Eric Nixon *Michael Wartell*

Diane McDermott, Interim Executive Director

May 19, 2022

Harold Medina, Chief of Police
C/O Internal Affairs Unit
Albuquerque Police Department
400 Roma NW
Albuquerque, NM 87102

RE: APD Case # 21-0063380, IAFD Case # F2021-000511

Dear Chief Medina:

The Interim Executive Director's review of this case included:

- Computer Aided Dispatch Reports
- Criminalistics Reports
 - Crime scene photos
- Use of Force Narratives
 - Officer Interviews
- Internal Affairs Force Division Reports
 - Supervisor Review
 - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 Use of Force
- Attending the Force Review Board Briefing 1/13/22
 - Power Point Presentation

On August 12, 2021, Mr. O was intoxicated and caused a disturbance in a hotel. Mr. O disturbed several individuals, fought with individuals, and allegedly attempted to strike an individual with a car. As a result, police were called. Officers investigated and determined there was probable cause to arrest Mr. O.

Officers 1 and 2 utilized low level control tactics on numerous occasions to overcome minimal resistance. Mr. O initially cooperated, but then offered passive resistance. At the police vehicle, Mr. O refused to get inside. Mr. O became agitated and hit his head on the police car causing a dent in the vehicle. Officers moved him away to prevent further injury to himself or damage.

Types of Force analyzed:

Level 3 empty hand takedown (handcuffed subject)

Mr. O attempted to trip officers. Mr. O struggled with officers and so he was put on the ground.

The use of force by Officers 1 and 2 was within policy

Level 1 resisted handcuffing

Once in handcuffs on the ground, Mr. O continued to struggle. Officer 2 prevented Mr. O from kicking. Officer 2 applied a PRS to Mr. O.

The use of force by Officers 1 and 2 was within policy

The specific policies identified in the investigation regarding the use of force were:

2-52-4-E-1 When force is used, the decision to use force and the level of force must be reasonable, necessary, and proportional given the totality of the circumstances. The use of force was within policy

2-52-4-E-2 Factors defining the totality of the circumstances include, but are not limited to the following: a. The severity of the crime (s) at issue; b. Whether the individual actively resisted arrest or attempting to evade arrest by flight; and c. Whether the individual poses an immediate threat to the safety of the officer (s) or others.

2-53-Q-1 Minimum Amount of Force Necessary 1. The lowest level of force within the range of objectively reasonable force that is necessary to make an arrest or to achieve a lawful objective without increasing the risk to the officers or others.

Post use of force action:

Mr. O remained uncooperative. He was assessed by Rescue.

The Civilian Police Oversight Board reviewed the case at their May 19, 2022 meeting.

The Board did not make any additional recommendations or considerations. The Board voted to approve the findings of the Interim Executive Director and the FRB.

Sincerely,



Diane McDermott
Interim Executive Director
Civilian Police Oversight Agency
(505) 924-3770

✓ The CPOAB voted to approve the findings of the CPOA and FRB in this case.

14- APD Case # 21-0065420

CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Eric Nixon *Michael Wartell*

Diane McDermott, Interim Executive Director

May 19, 2022

Harold Medina, Chief of Police
C/O Internal Affairs Unit
Albuquerque Police Department
400 Roma NW
Albuquerque, NM 87102

RE: APD Case # 21-0065420, IAFD Case # F2021-000526

Dear Chief Medina:

The Interim Executive Director's review of this case included:

- Computer Aided Dispatch Reports
- Criminalistics Reports
 - Crime scene photos
- Use of Force Narratives
 - Officer Interviews
- Internal Affairs Force Division Reports
 - Supervisor Review
 - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 Use of Force
- Attending the Force Review Board Briefing 1/13/22
 - Power Point Presentation

On August 19, 2021, Sgt. 1 observed 2 individuals loitering. The management complained of loiterers. Sgt. 1 requested backup, Officer 1 arrived, and they contacted the individuals. One individual was allowed to depart as he had demonstrated he had conducted business at the establishment. Mr. G was detained for trespassing. Sgt. 1 noticed evidence of paraphernalia in plain view in Mr. G's backpack. Officer 1 requested to remove the paraphernalia, was given permission, and located narcotics. As a result, Mr. G was informed he was under arrest.

Types of Force analyzed:

Level 3 empty hand control (handcuffed subject)

During the search incident to arrest, Mr. G tried to pull free and reach into his pockets. Officer 1 and Sgt. 1 grabbed his arm from within his pocket. Mr. G denied doing anything, but

clenched something in his hand. Officer 1 tried to force his hand open. Mr. G tried to conceal the narcotics in his anus. Officers physically wrestled with his hands and arms to release what was in his hand and not conceal it.

The use of force by Officer 1 and Sgt. 1 was within policy

Level 3 empty hand takedown (handcuffed subject)

Mr. G raised his leg to kick and Officer 1 and Sgt. 1 put Mr. G to the ground.

The use of force by Officer 1 and Sgt. 1 was within policy

Level 3 empty hand control (handcuffed subject)

Sgt. 1 straddled Mr. G. Officer 1 still struggled with Mr. G's clenched fist to get him to release what he held while he was on the ground. Officer 1 applied pressure to Mr. G's arm and lifted it. He then pried Mr. G's hand open.

The use of force by Officer 1 and Sgt. 1 was within policy

The specific policies identified in the investigation regarding the use of force were:

2-52-5C C. Officers shall not use force against a restrained or handcuffed individual unless the force is necessary: 1. To prevent imminent bodily harm to the officer or another person or persons; 2. To overcome active resistance; or 3. To move an individual who is passively resisting.

2-52-5A.6 6. The use of leg sweeps, arm-bar takedowns, or a passive restraint system (P.R.S) shall only be considered and used in the following circumstances: a. To prevent imminent bodily harm to the officer or to another person or persons; or b. To overcome active resistance.

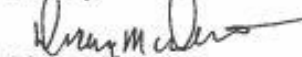
Post use of force action:

He was assessed by Rescue.

The Civilian Police Oversight Board reviewed the case at their May 19, 2022 meeting.

The Board did not make any additional recommendations or considerations. The Board voted to approve the findings of the Interim Executive Director and the FRB.

Sincerely,



Diane McDermott
Interim Executive Director
Civilian Police Oversight Agency
(505) 924-3770

✓ The CPOAB voted to approve the findings of the CPOA and FRB in this case.

15- APD Case # 21-0072619

CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Eric Nixon *Michael Wartell*

Diane McDermott, Interim Executive Director

May 19, 2022

Harold Medina, Chief of Police
C/O Internal Affairs Unit
Albuquerque Police Department
400 Roma NW
Albuquerque, NM 87102

RE: APD Case # 21-0072619, IAFD Case # F2021-574

Dear Chief Medina:

The Interim Executive Director's review of this case included:

- Computer Aided Dispatch Reports
- Field reports
- Criminalistics Reports
 - Crime scene photos
- Use of Force Narratives
 - Officer Interviews
- Internal Affairs Force Division Reports
 - Supervisor Review
 - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 Use of Force
- Attending the Force Review Board Briefing 1/27/22
 - Power Point Presentation

On September 13, 2021, Officers 1 and 2 were dispatched in reference to a disturbance. Ms. F was pulling a fire alarm and breaking lights. There was a restraining order against Ms. F for being at the location. Officer 2 advised Ms. F she was under arrest for the violation. Ms. F ran from officers. However, she returned and was placed in handcuffs.

Types of Force analyzed:

Low level control tactics were used several times during the encounter to guide Ms. F.

Level 3 empty hand takedown (handcuffed subject)

Once in handcuffs Ms. F took several steps forward and leaned her body back. She sat on the ground, but used her legs to push herself back up. Officer 1 grabbed the back of her shirt and pushed her back down. She made a biting motion towards the officer.

The use of force by Officer 1 was within policy

Level 1 empty hand control

While being escorted she was uncooperative. She wrapped her legs around Officer 1's legs. She clamped her knee around his leg and refused to release. Officer 1 pried Ms. F's legs apart to release his leg.

The use of force by Officer 1 was within policy

The specific policies identified regarding the use of force were:

2-52-4-A-2 Use of force Requirements

A. General Requirements

2. When feasible, officers shall allow an individual a reasonable amount of time to submit to arrest or a lawful order before using force.

2-52-6-A-6-a-b Use of Force Procedures

A. General Procedures

6. The use of leg sweeps, arm-bar takedowns, or a passive restraint system (P.R.S) shall only be considered and used in the following circumstances:

- a. To prevent imminent bodily harm to the officer or to another person or persons;
- b. To overcome active resistance.

The Civilian Police Oversight Board reviewed the case at their May 19, 2022 meeting.

The Board did not make any additional recommendations or considerations. The Board voted to approve the findings of the Interim Executive Director and the FRB.

Sincerely,



Diane McDermott
Interim Executive Director
Civilian Police Oversight Agency
(505) 924-3770

- ✓ The CPOAB voted to approve the findings of the CPOA and FRB in this case.

16- APD Case # 21-0078682

CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Eric Nixon *Michael Wartell*

Diane McDermott, Interim Executive Director

May 19, 2022

Harold Medina, Chief of Police
C/O Internal Affairs Unit
Albuquerque Police Department
400 Roma NW
Albuquerque, NM 87102

RE: APD Case # 21-0078682, IAFD Case # F2021-00608

Dear Chief Medina:

The Interim Executive Director's review of this case included:

- Computer Aided Dispatch Reports
- Field reports
- Criminalistics Reports
 - Crime scene photos
- Use of Force Narratives
 - Officer Interviews
- Internal Affairs Force Division Reports
 - Supervisor Review
 - Command Review
- On Body Recording Device Videos
- Misconduct investigation
- APD Policy 2-52 Use of Force
- Attending the Force Review Board Briefing 1/27/22
 - Power Point Presentation

On October 3, 2021, Officers 1 and 3 were dispatched to an intersection at Coors Blvd Bypass and Ellison for an individual huffing computer duster while walking in lanes of traffic. Officer 1 contacted Mr. S while Mr. S was walking in traffic and screaming. Mr. S would not comply with orders such as stop or get on the ground and instead ran into traffic on Coors multiple times.

Types of Force analyzed:

Show of Force (ECW)

Upon arrival Officer 2 observed Mr. S running at Officer 1. Officer 2 had his ECW and pointed it at Mr. S. However, he did not use the ECW over the concern of a fire hazard due to the canned air.

The show of force by Officer 2 was within policy (however potentially an issue of not reporting it, see misconduct investigation)

Level 2 takedown (leg sweep)

Officer 1 grabbed both of Mr. S' shoulders and used his foot to kick Mr. S' leg out from under him in order to get Mr. S into custody. Officer 1 and Mr. S fell to the ground.

The use of force by Officer 1 was within policy

Level 1 resisted handcuffing

Officers 1 and 2 tried to handcuff Mr. S by pulling on his arms. Officer 1 cautioned Mr. S he would be tased if he did not comply. Mr. S tried to bite Officer 1. Officer 1 told Mr. S to stop biting. Mr. S then stopped resisting, but officers waited for more backup before trying to handcuff him to avoid further physical fighting.

The use of force by Officers 1 and 2 was within policy.

Low level control tactics were used to get Mr. S into handcuffs and escort him to the police vehicle. At the police vehicle, Mr. S started to kick. The decision was to place Mr. S in a PRS. In order to do so he had to be on the ground. Orders were given for several minutes.

level 3 takedown (handcuffed subject)

Lt. 1, Officer 3, Officer 2, and Officer 1 all grabbed various positions on Mr. S and lowered him to the ground.

The uses of force by Officers 1-3 and Lt. 1 were within policy.

Level 1 resisted handcuffing 2nd incident

Officers held Mr. S, but Mr. S pulled away from Officers 1 and 3 while trying to kick. Officers 1 and 3 pulled and struggled against Mr. S.

The uses of force by Officer 1 and 3 were within policy

The specific policies identified in the investigation regarding the use of force were

2-52-6-A-6: Leg Sweep Takedown; P.R.S.

The use of leg sweeps, arm-bar takedowns, or a passive restraint system (P.R.S) shall only be considered and used in the following circumstances: a. To prevent imminent bodily harm to the officer or to another person or persons; or
b. To overcome active resistance.

2-52-4-F-1: Lawful Objective

1. Officers shall only use force to achieve a lawful objective. Officers are authorized to use force:

- a. To effect a lawful arrest or detention of a person;
- e. To defend an officer or person from the physical acts of another

2-52-5-C: Use of Force Prohibitions

C. Officers shall not use force against a restrained or handcuffed individual unless the force is necessary:

- 1. To prevent imminent bodily harm to the officer or another person or persons;
- 2. To overcome active resistance

2-54-B-1: ECW Use

An officer shall issue a verbal warning to an individual, and allow that person a reasonable time to comply with the warning prior to deploying any ECW, unless doing so would place an officer or other person at increased risk. An example of a verbal warning is: "Stop or you will be tased!"

The potential misconduct involved 2-52-6A8 where Officer 2 allegedly did not document that he had a show of force with his ECW. An Internal Affairs referral was created for investigation.

Post use of force action:

Rescue was called to check Mr. S, but he refused. Mr. S started banging his head inside the patrol car. He also was spitting at officers. Officer 3 and Sgt. 1 put a protective helmet and spit sock on him.

The Civilian Police Oversight Board reviewed the case at their May 19, 2022 meeting. The Board did not make any additional recommendations or considerations. The Board voted to approve the findings of the Interim Executive Director and the FRB.

Sincerely,


Diane McDermott
Interim Executive Director
Civilian Police Oversight Agency
(505) 924-3770

- ✓ The CPOAB voted to approve the findings of the CPOA and FRB in this case.

Section IV. Public Outreach

This section highlights public outreach initiatives undertaken by the CPOA and the Board during this reporting period. The CPOA/CPOAB continued all public meetings via Zoom video conference. There was a total of *ten* monthly CPOAB meetings held during the

Mission Statement

"Outreach will promote the mission of the CPOAB and be the bridge for communication with the community."

reporting period to include *four* special meetings. Also, there was a total of *three* Community Outreach sub-committee meetings held during this period. All meetings were held via zoom videoconference. Member Chantal Galloway continued her role as the Chair of the Outreach sub-committee for this period prior to her resignation in May. Sub-committee efforts were focused on supporting the needs of the Agency and the Board, while also including the ongoing community engagement between the CPOA and the community policing councils (CPC's). Public Outreach activities during this reporting period are highlighted below:

- Community Engagement Specialist position remained unfilled till the end of this reporting period.
- At January 25th 2022 outreach sub-committee meeting, Interim Director notified that she was contacted by Big Brothers Big Sisters of New Mexico Organization inquiring into potential collaboration with the CPOAB for youth mentorship engagement. Ms. McDermott did extend an invite to Mr. Wilson with Big Brothers/Big Sisters Mentorship Program to attend an Outreach Subcommittee meeting.
- At February 22nd 2022 outreach sub-committee meeting, member Crawford noted he will take the lead on setting up meetings with new City Councilors and will invite them to a future sub-committee meeting.
- The outreach sub-committee discussed the training requirements for Board members during the sub-committee meetings. At February 22nd 2022 meeting, Chair Galloway informed the committee about the feedback she received from the IMT on the essay's

submitted by 3 CPOA Board members for their annual training requirements. The IMT suggests that future submissions be typed and contain detail with substance and thought, evaluation of each conference and/or seminar attended and capture aggregate training time.

- At February 22nd 2022 meeting, CPC Liaison Kelly Mensah provided information on the new CPC Ombudsman position responsibilities.
- At March 29th 2022 sub-committee meeting, CPC Liaison Kelly Mensah reported he was a panelist for an APD recruiting event focusing on minorities and was also a guest on the Diane Kinderwater show.
- Interim Director updated the sub-committee on board member appointments and the sub-committee at March 29th 2022 meeting recommended to invite Chris Sylvan to the next sub-committee meeting to report on the status of CPOA board vacancies.
- Outreach sub-committee chair elections were held at the March 2022 meeting. Chantal M. Galloway nominated herself to continue serving as the Chair of the outreach sub-committee. There were no other nominations. Chantal M. Galloway will continue as Chair of the outreach sub-committee.
- CPC Liaison Kelly Mensah attended an event with Dr. Harold Bailey and spoke about what the role of CPCs. He did a discussion on CPCs that got broadcast on the news and other platforms.
- CPC Office Assistant Billy Marteessa reported to outreach sub-committee about the CPC activities to include; CPC holding a meeting to welcome David Walker to the CPC as he will be working with the CPCs on getting recommendations reviewed by the city, Council of Chairs discussed recommendations and letter to the judge for the February 9th 2022 court hearing, CPCs are trying to reach every member of every neighborhood watch and representation group in the city to invite them to the meeting in their area, also the Chairs held a meeting with Dr. Rickman to discuss what they have in mind for the Ombudsman responsibilities and how Pastor Walker can help. She also reported that 50 plus locations



will add brochures and business cards for the CPCs and update the sub-committee on CPCs membership throughout this reporting period.

Section V. CPOA/Board Policy Activities, Policy Recommendations provided to APD, CPOAB Training Status & Legislative Amendments to Oversight Ordinance and Policies and Procedures

As defined in the Oversight Ordinance, an important role of the CPOA/Board is to *“Provide input, guidance and recommendations to the City Council, the Mayor and the Chief of Police for the development of policy for the Albuquerque Police Department”*. The Oversight Ordinance requires the Board and the Agency to recommend policies, training, programs, and other procedural suggestions to the APD. This section provides a snapshot of the activities that the Board dedicated to policy and other important matters related to APD during the current reporting period. During the first year of its existence the Board created a set of operating procedures designed to meet their obligations per the Oversight Ordinance. To serve this mission, the Board created Policy and Procedures Review Sub-Committee (PnP) that reviews APD policies and procedures, and makes recommendations on changes to ensure that compliance and consistency aligns with the CPOA’s mission.

A critical function of the CPOA and the Board is to provide information regarding the APD policy processes to the public. This function is enhanced when CPOA/Board participates directly in the policy development process at APD and reports the results to the public. CPOA/Board recommendations are given serious consideration in the APD policy development and review process. Board members, the CPOA Executive Director and staff regularly participate in Policy and Procedure Unit (formerly Office of Policy Analysis OPA) meetings where new policies and modifications to existing policies are presented for review by APD subject matter experts. The members are presented with the opportunity to ask questions and recommend policy changes. The Board designee and the CPOA Executive Director also attend the Policy and Procedures Review Board (PPRB) meetings to finalize and vote on the SOPs before they reach the CPOAB for an additional 30-day review, the DOJ & the independent monitor (if it is CASA related policy) and the Chief of APD for final approval prior to publishing.

Starting January 1st 2022 and ending June 30th 2022, CPOA/Board were involved in numerous policy related activities and discussed several other issues and matters going-on at the department. These activities are listed below:

- A total of 14 APD Policy and Procedures Review Unit meetings were held during the first six months of 2022. List of Standard Operating Procedures that were presented at these meetings includes the following:

	Policies presented at Policy and Procedures Review Unit
1	SOP 1-94 (Currently 6-1) Training Division
2	SOP 1-13 Armed Robbery Unit
3	SOP 1-61 Internal Affairs Force Division
4	SOP 1-91 (Currently 1-92) Tactical Emergency Medical Support (TEMS)
5	SOP 1-92 (Formerly 6-8) Special Weapons and Tactics (SWAT) (Formerly Specialized Tactical Units)
6	SOP 1-96 (Currently 1-92) Crisis Negotiation Team (CNT)
7	SOP 2-48 Towing and Wrecker Services
8	SOP 2-49 Inspection of Motor Vehicles
9	SOP 2-78 (Currently 4-25) Domestic Violence
10	SOP 2-88 Bait Car Program
11	SOP 3-7 Remote Work
12	SOP 1-60 (Currently 5-3-6) Interagency Task Force Operations
13	SOP 1-66 (Formerly 5-3) Missing Persons Unit
14	SOP 1-70 (Currently 6-11) Open Space Unit
15	SOP 2-26 (Currently 4-20) Event Application and Permit (archived)
16	SOP 2-44 Traffic and Roadway Services
17	2-46 Response to Traffic Crashes
18	SOP 2-51 Safe Driver Award Program
19	SOP 2-73 Collection, Submission, and Disposition of Evidence and Property
20	SOP 1-59 (Formerly 4-4) Impact Team
21	SOP 2-40 Misdemeanor, Traffic, and Parking Enforcement
22	SOP 2-80 Arrests, Arrest Warrants, and Booking Procedures

23	SOP 2-83 Hospital Procedures and Rules
24	SOP 2-103 (Currently 4-24) Trespass Notification
25	SOP 3-1 Dispatch and Radio Procedures (archived)
26	SOP 1-87 (Currently 5-5) Scientific Evidence Division
27	SOP 2-18 Contact with Persons with Disabilities
28	SOP 2-42 DWI Investigations and Revoked/Suspended License
29	SOP 2-43 Roadblocks and Checkpoints
30	SOP 2-76 Court
31	SOP 1-78 (Formerly 4-6) Police Service Aide (PSA) Program
32	SOP 2-96 Clandestine Drug Laboratory and Indoor Marijuana Grow Site Investigations
33	SOP 1-64 (Formerly 6-9) Patrol Canine (K-9) Unit
34	SOP 1-71 (Currently 4-1) Operations Review Section
35	SOP 2-23 (Formerly 2-45) Use of Patrol Canine (k9) Unit
36	SOP 2-34 Notification of Significant Events
37	SOP 2-74 Submission of Felony Cases to the District Attorney
38	SOP 3-21 Scheduled and Unscheduled Leave
39	SOP 3-24 In the Line-of-Duty Death Notifications and Benefits
40	SOP 1-6 (Currently 4-15) Patrol Ride-Along
41	SOP 1-48 (Currently 8-3) Fiscal Division
42	SOP 3-76 Purchasing Guide (archived)
43	SOP 1-52 (Currently 6-10) Homeland Security Unit
44	SOP 2-17 Offense/Incident Report Form (archived)
45	SOP 2-62 (Formerly 1-06) Criminal Background Investigations
46	SOP 2-86 (Formerly 2-26) Investigation of Property Crimes
47	SOP 4-22 Shoplifting (archived)
48	SOP 1-91 Tactical Emergency Medical Support (TEMS)
49	SOP 2-60 Preliminary and Follow-Up Criminal Investigations
50	SOP 2-95 Undercover High-Risk Vehicle Containment Procedures
51	SOP 1-41 Evidence Unit
52	SOP 1-72 Organized Crime Unit
53	SOP 2-32 Exposure to Blood and Bodily Fluids

54	SOP 2-59 Extreme Risk Firearm Protection Order
55	SOP 3-25 Bid Process
56	SOP 3-33 Performance Evaluation and Management System
57	SOP 3-34 Training Committee
58	SOP 3-44 Review of Completed Administrative Investigation Cases
59	SOP 1-14 Rapid Accountability Diversion Program
60	SOP 2-25 Bomb Threats and Bomb Emergencies
61	SOP 2-64 Violence Intervention Program (VIP) Custom Notification Deliveries
62	SOP 2-108 Electronic Communications Privacy Act Procedures
63	SOP 3-12 Awards and Recognition
64	SOP 3-50 Forms Control
65	SOP 1-1 Personnel Code of Conduct
66	SOP 1-50 Gun Violence Reduction Unit
67	SOP 1-53 Homicide Unit
68	SOP 1-65 Metropolitan Court Protection Unit
69	SOP 2-13 Star Chase Pursuit Management System
70	SOP 2-21 Apparent Natural Death or Suicide of An Adult
71	SOP 2-33 Rights and Safety of Onlookers
72	SOP 2-66 Victim and Witness Assistance
73	SOP 1-56 Horse Mounted Unit (HMU) (Formerly 6-12)
74	SOP 2-31 (Formerly 1-08) Emergency Medical and Trauma Services
75	SOP 2-65 Language Access Procedure
76	SOP 2-112 Violence Intervention Program Call-In (Gun Violence Demonstration Enforcement Action)
77	SOP 3-6 Language Access Policy

- A total of 14 APD Policy and Procedures Review Board (PPRB) meetings were held during this reporting period. List of SOPs, forms and patches that were presented during this period includes the following:

	Policies, Forms, Patches presented at PPRB
1	Patch- Crimes Against Children Unit
2	SOP 1-16 (Formerly 5-11) Auto Theft Unit

3	SOP 1-20 (Formerly 1-11) Behavioral Sciences Section
4	SOP 1-37 (Formerly 2-13) Crisis Intervention Division (CID) and Program
5	SOP 1-58 Crime Gun Intelligence Center
6	SOP 2-8 Use of On-Body Recording Devices (OBRD)
7	SOP 2-19 Response to Behavioral Health Issues
8	SOP 2-22 Juvenile Delinquency
9	SOP 2-35 (Formerly 2-29) Emergency Response Team (ERT)
10	SOP 1-25 Chaplain Unit
11	SOP 1-39 (Formerly 6-4) DWI Unit
12	SOP 2-2 Department Property
13	SOP 2-41 Traffic Stops
14	SOP 2-58 Force Review Board
15	SOP 2-104 (Currently 4-24) Civil Disputes
16	SOP 2-104 (Currently 4-26) Destruction/Capture of Animals
17	SOP 2-106 (Currently 4-27) Lost and Found Government-Issued Identification Cards and Driver's Licenses
18	SOP 1-28 Downtown Unit
19	SOP 1-4 Bias-Based Policing and/or Profiling
20	SOP 1-26 Special Victims Section
21	SOP 1-34 (Formerly 5-8) Crime Prevention Section
22	SOP 2-6 Use of Emergency Warning Equipment
23	SOP 2-38 (Formerly 4-13) Daily Staffing and Briefings
24	SOP 2-71 Search and Seizure without a Warrant
25	SOP 2-82 Restraints and Transportation of Individuals
26	SOP 3-7 Remote Work
27	SOP 2-52 (Formerly 3-45) Use of Force: General
28	SOP 2-53 Use of Force: Definitions

29	SOP 2-54 Use of Force: Intermediate Weapon Systems
30	SOP 2-55 Use of Force: De-escalation
31	SOP 2-56 Use of Force: Reporting by Department Personnel
32	SOP 2-57 Use of Force: Review and Investigation by Department Personnel
33	SOP 1-60 (Currently 5-3-6) Interagency Task Force Operations
34	SOP 1-61 Internal Affairs Force Division
35	SOP 1-70 (Currently 6-11) Open Space Unit
36	SOP 2-26 (Currently 4-20) Event Application and Permit
37	SOP 2-44 Traffic and Roadway Services
38	SOP 1-94 (Currently 6-1) Training Division
39	SOP 1-92 (Formerly 6-8) Special Weapons and Tactics (SWAT)
40	SOP 1-96 (Currently 1-92) Crisis Negotiation Team (CNT)
41	SOP 2-48 Towing Services
42	SOP 2-49 Vehicle Identification Number (VIN) Inspections
43	SOP 2-78 (Currently 4-25) Domestic Violence
44	SOP 2-88 Bait Car Program
45	SOP 1-90 (Currently 5-1) Investigative Services Division
46	SOP 2-42 DWI Investigations and Revoked or Suspended License
47	SOP 2-43 Roadblocks and Checkpoints
48	Patch- Armed Robbery Unit
49	Patch- Missing Persons Unit
50	Patch- Multi-Agency Task Force (MATF)
51	SOP 2-96 (Formerly 2-36) Clandestine Drug Laboratory and Indoor Marijuana Grow Site Investigations
52	SOP 1-100 (Currently 2-01 and 9-1) Emergency Communications Center Division
53	SOP 3-1 Dispatch and Radio Procedure
54	SOP 1-71 (Currently 4-1) Operations Review Section
55	SOP 1-87 (Currently 5-5) Scientific Evidence Division
56	SOP 2-73 (Formerly 2-08) Collection, Submission, and Disposition of Evidence and Property
57	SOP 2-76 (Formerly 2-01) Court
58	SOP 3-24 In the Line-of-Duty Death Notifications and Benefits

59	SOP 1-6 (Currently 4-15) Patrol Ride-Along Program
60	SOP 1-13 (Formerly 5-3) Armed Robbery Unit
61	SOP 1-66 (Formerly 5-3) Missing Persons Unit
62	SOP 2-34 Notification of Significant Incidents
63	Form- Police Service Aide-Recruit (PSA-R) Responsibilities
64	SOP 2-17 Offense or Incident Report Form
65	SOP 2-40 Misdemeanor, Traffic, and Parking Enforcement
66	SOP 2-46 Response to Traffic Crashes
67	SOP 2-51 (Formerly 3-63) Safe Driver Award Program
68	SOP 2-80 (Formerly 2-14) Arrests, Arrest Warrants, and Booking Procedures
69	Patch- Peer Support
70	SOP 1-48 (Currently 8-3) Fiscal Division
71	SOP 1-78 (Formerly 4-6) Police Service Aide (PSA) Program
72	SOP 2-62 (Formerly 1-06) Criminal Background Investigations
73	SOP 3-21 (Formerly 3-15 and 3-72) Scheduled and Unscheduled Leave
74	SOP 3-76 Purchasing Guide
75	Form- PD 1102 APD Complaint or Commendation Form
76	Form-PD 1002 Ride-Along Request Form
77	Form- PD 1338 Permission to Search
78	Form- Briefing Video Development Request
79	Form- PD 3011 Domestic Violence Victim Packet
80	Form- PD 4421 Statement of Intent for Return of a Firearm
81	Form- PD 1391 Information for a Victim of a Misdemeanor Crime
82	Form- PD 1338 Permission to Search
83	Form- PD 1337 Waiver of Prosecution
84	Form- PD 3011 Domestic Violence Victim Packet
85	Form- PD 4605 Deaf Hearing-Impaired Sign Language Interpreter Waiver Form
86	Form- PD 1337 Waiver of Prosecution Form
87	Form- PD 4706 Infectious Disease Exposure Consent Form
88	Form- PD 1010 Ride Along Media Agreement
89	Form- PD 1339 Interview Advise of Rights Your Constitutional Rights
90	Form- PD 4414 Receipt

91	Form- PD 4402 APD Transport Unit Daily Inspection Log
92	Form- Police Service Aide Recruit (PSA-R) Code of Conduct
93	Form- PD 1106 Area Command Division Internal Complaint Disposition
94	Form- PD 1142 Sworn Employee Representative Admonition
95	Form- PD 3109 Risk Assessment Matrix
96	Form- CJIS (Criminal Justice Information Services) Systems Access Request Form
97	Form- SOD On-Scene Accountability Form
98	Form- Remote Work Agreement
99	Patch- Child Exploitation Detail (CED)

- Diane McDermott served in the role of Interim Executive Director throughout this reporting period.
- Two veteran Board members Dr. William Kass and Chantal Galloway resigned during this reporting period.
- Renegotiated Collective Bargaining Agreement between the City of Albuquerque and Albuquerque Police Officers Association became effective January 1st 2022 through June 30th 2023. Some changes that impact investigations include; preliminary investigation now being allowed for up to 15 days, the investigation will now be concluded within 120 days (eliminates the need for 30 day Chief extension), the review period by the chain of command increased from 30 to 40 days, if additional allegations arise from investigations the timeline to complete the investigation will remain 120 days, the final notice of determination to an officer with findings will be sent within 20 days, if investigations is completed out of time, no discipline will take place and it will not be used for progressive discipline however training/policy recommendations, reassignment, promotion consideration, and being considered an aggravating circumstance is still applicable.
- At January 13th 2022 board meeting, Chris Sylvan updated the Board on the complete process of selection and appointment of CPOA board members by the City Council.

- The CPOAB worked on the proposal to limit the type of cases appropriate for review by the CPOA at the January 13th 2022 board meeting. The Board voted to approve sending the proposal to the DOJ and IMT for their feedback. The topics in the proposal included imposing statute of limitations on complaint filing to one year, restricting third party complaints, reduce number of complaints investigated by the Agency that are submitted by vexatious complainants.
- The CPOAB at the January meeting voted to approve sending a proposal to the IMT for its consideration: Any individual appointed to the Albuquerque Civilian Police Oversight Agency Board during the first calendar quarter of the year must complete 8 hours of annual training as prescribed in CASA Paragraph 275 within the same calendar year. Any individual appointed in calendar quarters two, three and four are encouraged to complete the additional 8 hours of annual training if they are able but will not be required to do so until the calendar year following their appointment. This requirement must be completed by the member annually thereafter.
- The CPOAB appointed Member Jesse Crawford to serve as an IMR Liaison for the Board.
- Sub-committee changes were made during this reporting period (January 13th 2022). New membership includes: **Outreach Sub-committee** Members Chantal Galloway and Jesse Crawford. **Policy and Procedure Sub-committee** Members Dr. William Kass and Jesse Crawford. **Case Review Sub-Committee** Members Patricia French and Eric Nixon. **Personnel Sub-committee** Members Chantal Galloway and Patricia French.
- The CPOAB held a special meeting on January 31st 2022 to discuss City Council's proposed changes to the Civilian Police Oversight Ordinance. There were votes on 56 items, the minutes link reflects all the proposed changes and votes by the members of the Board. <https://www.cabq.gov/cpoa/documents/final-cpoa-board-special-meeting-minutes-for-janaury-31-2022-w-attachments.pdf>.
- The monitor reporting period for IMR 15 concluded on January 31st 2022.

- The public hearing on December 16th 2021 regarding IMR 14 in the Albuquerque constitutional policing case was not able to accommodate all stakeholders due to time constraints. At the request of the parties, another hearing was held on February 9th 2022.
- Highlights of the public hearing of February 9th 2022 includes; APD Forward, through Mr. Housepian, presented concerns about IMR-14 deficiencies, as well as the concerning attacks on the IM Team. The fact that EFIT is working shows that quality investigations can occur and that APD needs to act to stop procrastinating. APD Forward is happy with the IM team's work and has met with DOJ to express the urgency of keeping the process moving forward as quickly as possible. The only way this process will be sustainable requires community buy in. Vicki Williams, NE CPC described the CPC's as the bridge between APD and the community. She noted that the CPCs are struggling with this role, feeling left out and disrespected by the City. They do not believe that the City is meeting the CASA requirements. They believe that they need a specialized position to assist the CPCs in navigating City policies and procedures to help them be effective. The CPCs have met with the City and DOJ about these concerns. The Community Coalition, through Mr. Mathewson, is troubled by the slow CASA process. They are concerned that, at the rate compliance is going, the CASA is going to never end. The Community Coalition would like to see a plan to ensure that compliance occurs, and that a timeframe be included with it. They have met with the DOJ about these concerns and believe that this required a push from the DOJ. The Mental Health Response Advisory Committee (MHRAC), through Mr. Whatley stated, while APD initially appeared that it wanted MHRAC involved, the City/APD has changed to only involving MHRAC after the fact. MHRAC has tried to fix this but is concerned about APD training, public statements from ACS, and lack of involving MHRAC in the process. The McClendon Subclass, through Mr. Cubra, expressed serious concerns about the City's failure to comply with the CASA, and how it should expose the City to civil contempt proceedings. The current City administration's website attacking the IM Team are improper, and defamatory. The McClendon Subclass would like the Court to act, even though the DOJ has not asked for it. It is his position that when a litigant disrespect a court order, defames a court's agents, and engages in other related behavior, the Court needs to act to protect to Court's integrity. The Civilian Police

Oversight Agency Board, through Chair Galloway, presented information about the current transitional phase the Board is experiencing. She discussed Board training and the need for collaboration with the City. Director McDermott also presented on behalf of the CPOA. She mentioned an anticipated stipulated order regarding mediation and how she hoped the Court would sign it. She also mentioned the need for a minimum budgetary amount for the CPOA, and how that is important to sustainability. The DOJ provided an update about the IAFD backlog and how it believes that collaboration is the best way to proceed in this regard. As they are working through the backlog with EFIT, they will ensure transparency regarding these investigations. Mr. Pacheco agreed with the DOJ and is optimistic the agreement with DOJ will address the force cases backlog in a meaningful way. Mr. Killebrew believes that it is critical all voices be heard at public meetings. He was pleased to hear that the amici stakeholders met with the DOJ. DOJ remains committed to keeping all options on the table to move the City into CASA compliance, but it wants sustainable reform. This means the City must own the reform and be able to carry it forward. The Court asked whether the DOJ had noted a change in community sentiment for reform, and whether the CASA was a historical document where there would be no consequences for non-compliance—as opposed to a living, breathing document. Mr. Killebrew thinks the DOJ’s job is to work with the City to reach sustainable compliance as efficiently as possible. Ms. Martinez spoke about the CPC and CPOA concerns. With regard to the CPCs, the DOJ is committed to supporting them and hopes to help them get the resources they need. She informed the Court that the CPOA’s request to modify the CASA for the types of complaints that must be investigated needs to wait until the Ordinance amendments are completed. When Mr. Pacheco spoke, the Court asked him about recent statements the Mayor made about the CASA --“saying yes isn’t working, saying no isn’t working, we need to do what is best for the community.” Mr. Pacheco said this means the City needs to be an advocate for itself and ask hard questions to ensure a mutual partnership. The City’s approach to the CASA has changed in that it is now more willing to ask hard questions, and this means it will be a more sustainable process. The City disagrees with the notion it is deliberately not complying with the CASA. Chief Medina is committed to the process and the people of Albuquerque. The most difficult part of his job is the balancing act that occurs every day. He wants a fully functional police

department that outlives the CASA. He hopes that by next year there will be a sustainable compliance APD division. Mr. Mowrer, on behalf of the APOA, told the Court that the spotlight on APD officers is leading to frustration and resignations. He noted there is no counter-CASA deliberate actions happening. He thinks the top frustrations stem from officers, like criminal detectives, not having enough manpower to do their jobs with resources being allocated towards use of force investigations. There is a new CBA that increased officer pay and changed disciplinary timelines (DOJ told the Court that the CASA needs to be modified to match this new CBA). The Court wanted to know why the CPOA Board was prohibited from knowing officer information in the CBA—Mr. Mowrer thought it was because of the public discussion of these cases in open meetings. Dr. Ginger spoke last and appreciated hearing from the amici. A draft IMR-15 will go out on April 12th 2022 for input. He warned against the false dichotomy between effectiveness and compliance. Stated when compliance goes up, so does effectiveness.

- The CPOAB discussed status of the Board’s review of the Serious Use of Force and Officer Involved Shooting cases and sought legal opinion from the counsel on continuation of reviewing these cases without Executive Director’s recommendation and finding.
- The CPOAB approved the January to June 2021 semiannual report to be forwarded to the city council for final approval at its February 10th 2022 board meeting. The report was accepted by the City Council at April 4th 2022 meeting.
- The CPOAB discussed the process for selection of Executive Director, proposed timelines and consideration of communications to stakeholder groups on the Director’s appointment at the February 10th 2022 board meeting.
- At February 10th meeting, the Executive Director notified the CPOAB about modifications to the computer-aided dispatch system which was noted at an FRB meeting. The upgraded system now allows linking historical information and hazards to individuals as well, previously it could only be linked to an address. Officers will now have the benefit of having more information about an individual when entered in the system.

- The Executive Director notified the CPOAB about all investigative positions being filled at the Agency during the February 10th 2022 monthly board meeting. The Agency during this reporting period was fully staffed with six investigators and one lead investigator/currently Interim Executive Director.
- The City Council unanimously passed revised Civilian Police Oversight Ordinance at March 7th 2022 meeting. On April 4th 2022, the revised ordinance became effective.
- The City Council passed a resolution directing the city administration to assess reopening and renegotiating the CASA in response to recent attorney general guidelines regarding such agreements. Some basic guidelines include; capping monitor fees, monitor having term limits which can be renewed after an evaluation process, public disclosure of monitor bills and methodologies to assess compliance, five-year goals for achieving reforms and several others.
- The CPOAB voted to approve sending a policy recommendation for SOP 1-2 Social Media to the Chief of Police at March 10th 2022. The Chief responded to the Board's recommendation on April 8th 2022. (see attached *Appendix III-21*)
- At March 10th 2022, the CPOAB approved renewing the contract of Sutin, Thayer & Browne Firm for Fiscal Year 2022/2023 as CPOA/CPOAB Legal Counsel.
- The CPOAB voted to adopt Open Meeting Act resolution at March 10th 2022 board meeting. (see attached *Appendix III-22*)
- The CPOAB approved sending a letter to the City Council in regards to 2021 Executive Director Performance Evaluation. (see attached *Appendix III-23*)
- The CPOAB voted to approve increasing the salary range on the job posting of the Executive Director from \$103,000 – \$121,000 to \$112,000 to \$121,000 at March 10th 2022 board meeting.

- Elections of the CPOA Board Chairperson and Vice-chairperson were held during the March 10th 2022 board meeting. Member Dr. Kass nominated himself to be the next chairperson of the CPOA Board. Member Nixon nominated Patricia J. French to be the next Chairperson of the CPOA Board. There were no other nominations. Patricia J. French was elected as the CPOA Board Chair by majority vote of the Board. Member Nixon nominated Jesse Crawford to be the next Vice-Chairperson of the CPOA Board. There were no other nominations. Jesse Crawford was elected as the CPOA Board Vice-Chair by unanimous consent.
- Member Dr. William Kass was nominated to be the CPOA Board representative for PPRB at March 10th 2022 board meeting. There were no other nominations. By acclamation Member Dr. Kass will serve as the CPOA Board representative of the PPRB. At April 14th 2022 meeting, after board member Dr. William Kass resignation, Chair Patricia French was nominated to serve as the CPOA Board representative for PPRB.
- The CPOAB held a special meeting on March 22nd 2022 to interview two candidates for the position of Executive Director. The CPOAB after closed session deliberations decided to table the item of selection of names to forward to the City Council. The CPOAB also approved sending a letter to the City Council to extend the Interim Director's appointment until a new Director is selected. (see attached *Appendix III-24*)
- The CPOAB held a special meeting on April 7th 2022 to discuss recent approved Use of Force policy suite which includes SOP 2-52 (Use of Force-General), SOP 2-53 (Use of Force: Definitions), SOP 2-54 (Use of Force: Intermediate Weapon Systems), SOP 2-55 (Use of Force- De-escalation), SOP 2-56 (Use of Force: Reporting by Department Personnel), SOP 2-57 (Use of Force: Review and Investigation by Department Personnel). Members of the community including APD Forward and general public were also invited to provide input for these policies. The Board approved to send recommendations for the Use of Force policy suite to the DOJ, IMT, Chief of Police and other stakeholders involved in the reform process. (see attached *Appendix III-25*)

- Sub-committee changes were made during the special meeting (April 7th 2022). New membership includes: **Outreach Sub-committee** Members Chantal Galloway and Michael Wartell. **Policy and Procedure Sub-committee** Members Jesse Crawford and Chantal Galloway. **Case Review Sub-Committee** Members Jesse Crawford and Eric Nixon. **Personnel Sub-committee** Members Patricia French and Michael Wartell.
- The Ad Hoc sub-committee was created for revisions to the CPOA Board's Policies and Procedures at the special meeting on April 7th 2022. Member Patricia French and Michael Wartell will be part of the Ad Hoc sub-committee. Legal Counsel Tina Gooch was also assigned to the Ad Hoc sub-committee by the Chair.
- A special meeting was held on May 11th 2022 to conduct candidate interviews for the position of the Executive Director. Five candidates were interviewed for the position. The CPOAB voted to approve sending communications to the City Council to move forward with the process and allowed Chair French and CPOA/CPOAB Legal Counsel Tina Gooch to draft communications of the CPOA Board's decision.
- The City Council unanimously passed the amendment to the CPOA ordinance allowing additional time to the Board members to complete the required training.
- The CPOAB requested the Agency to reach out to vendors to conduct staffing study for the CPOA at April 14th 2022 board meeting. The Interim Executive Director provided status updates to the Board on the request. At June 9th 2022 board meeting, Chair French noted that she and another Board member will contact Alexander Weiss Consulting to discuss the scope of work. If Alexander Weiss Consulting satisfies the intended scope of work, the proposal will be forwarded to the City's Procurement Department for approval. If the City's Procurement department approves the proposal, the Board will move forward with Alexander Weiss Consulting to conduct the CPOA staffing study. There has been no progress on the study till the end of this reporting period.

- The CPOAB discussed the letter from Deputy Chief Griego concerning OIS case #19-0077270 in response to CPOAB letter sent to Chief dated August 12th 2021. (see attached *Appendix III-26*)
- The CPOAB requested blank city letterhead to send out communications without utilizing the Agency. The Interim Executive Director notified the CPOAB that Mayor's office instruction does not allow for non-city employees to use the letterhead and respective Board's should utilize the respective agencies for communications. The Agency is the record custodian and IPRA requirements also requires the Agency to handle such matters.
- At May 19th 2022 Board meeting, the CPOAB discussed their concerns with the Citizen Police Academy (CPA) training requirement. The CPOAB voted to approve asking the City Council to change the CPA training requirement from required training to recommended training in the Police Oversight Ordinance.
- The CPOAB received an Open Meetings Act (OMA) complaint and approved sending the response written by the Legal Counsel.
- The CPOAB voted to approve the selection of Ms. Dierdre Ewing as the new CPOA Executive Director during the May 19th 2022 Board meeting.
- Chair Patricia French recognized former board member Chantal Galloway for her loyalty and dedication to the Board. She also acknowledged her as a senior board member and noted the extensive time she spent working with the Board and the Agency. She also requested the Agency to order a plaque for Ms. Galloway acknowledging her years of service on the Board.
- At June 9th 2022 board meeting, DOJ Attorney Jared Hager provided a summary of the Amended Stipulated Order filed with the Court and the methodology for investigating the backlog of use of force cases.

- At June 9th 2022 board meeting, City Council representative reported that prospective board members Greg Jackson and Rashad Raynor were introduced and Council voted on the legislation for the Executive Director at the June 6th 2022, City Council meeting.
- Independent Monitoring Team site visits with the DOJ for the IMR occurred during the first week of June 2022.
- AMICI meetings were held on June 23rd 2022.
- Throughout this reporting period, Consideration of Proposed MOU between the City of Albuquerque, CPOA/CPOAB and APOA in regards to the Board's access to OIS/SUOF materials has been a standing agenda item. The CPOA/CPOA Legal Counsel and City Attorney had been working towards this issue for approximately a year. The purpose of the MOU is to relax the requirement that OBRD footage be redacted before release to the Board--which would significantly reduce the burden on APD in preparing materials for CPOA review. Unfortunately, negotiation over this MOU has moved very slowly. While a draft exists that has been revised several times and then approved by the Board, it has been difficult to obtain approval or requested changes from other parties. While the changes made by the MOU are relatively minor, they are expected to result in significant time savings for APD and more complete and timely access to materials for the Board. This remained an unfinished business till the end of this reporting period.
- The CPOAB voted to approve the second half of 2021 semi-annual report at June 9th 2022 board meeting. The report remained with the City Council for final approval till the end of this reporting period.
- The CPOAB approved sending a letter to the court in regards to IMR hearing. The letter noted Board membership, MOU related to OBRD footage for SUOF cases, Board Trainings, and Access to materials. (see attached *Appendix III-27*)
- Policies that were voted by the Board for 'No Recommendations' during this reporting period includes: SOP 2-16 (Reports), SOP 2-24 (Hazardous Material Incident Response), SOP 2-29 (Child Exploitation Detail CED), SOP 3-42 (Investigation of Police Personnel),

SOP 3-43 (Relief of Duty), SOP 3-47 (Acceptance of Disciplinary Action and Right to Appeal), SOP 3-51 (Department Orders), SOP 3-52 (Policy Development Process), SOP 1-45 (Family Abuse and Stalking Training Team FASTT), SOP 2-03 (Firearms and Ammunition Authorization), SOP 2-93 (Child Abduction/Missing Child Investigations), SOP 3-17 (Duty Assignment and Transfers), SOP 1-16 (Auto Theft Unit), SOP 1-20 (Behavioral Sciences Section), SOP 1-28 (Downtown Unit), SOP 1-37 (Crisis Intervention Division and Program), SOP 1-58 (Gun Crime Intelligence Center), SOP 2-8 (Use of On-Body Recording Devices OBRD), SOP 2-19 (Response to Behavioral Health Issues), SOP 2-22 (Juvenile Delinquency), SOP 2-35 (Emergency Response Team ERT), SOP 1-25 (Chaplain Unit), SOP 1-39 (DWI Unit), SOP 2-2 (Department Property), SOP 2-100 (Emergency Communications Center Division), SOP 3-1 (Dispatch Radio Procedures), SOP 2-96 (Clandestine Drug Laboratory and Indoor Marijuana Grow Site Investigations), SOP 2-73 (Collection, Submission, and Disposition of Evidence and Property), SOP 2-76 (Court), SOP 3-24 (In-The-Line-Of-Duty Death Notification and Benefits), SOP 1-71 (Operations Review Section), SOP 1-87 (Scientific Evidence Division), SOP 1-6 (Patrol Ride-Along Process), SOP 1-13 (Armed Robbery Unit), SOP 1-66 (Missing Persons Unit), SOP 2-34 (Notification of Significant Incidents).

Policy Recommendations provided to APD

The Oversight Ordinance states *“The Board shall review and analyze policy suggestions, analysis, studies, and trend data collected or developed by the Administrative Office, and shall by majority vote recommend policies relating to training, programs and procedures or other matters relating to APD. Any such policy recommendations shall be supported by specific, written findings of the Board in support of the proposed policies. The Board's policy recommendations shall be submitted to APD and to the City Council. The Board shall dedicate a majority (more than 50%) of its time to the functions described in this subsection.”* (§ 9-4-1-4-C-5-a). The PnP Sub-committee is tasked with reviewing APD policies and procedures and make recommendations to the full Board on suggested changes.

Establishing and implementing sound policies are important to guide officers in making good decisions in critical situations. The quality of a department's policy impacts the quality of services delivered to the public. Effective police accountability requires the department to have clear and detailed policies regarding police encounters that involve life, liberty and well-being of people they encounter². Accountability encourages departments to build trust in the communities they serve. Policies need to be clear and consistent throughout a department's Standard Operating Procedures manual. Inadequate policies fail to tackle possibly illegal and unprofessional actions. CPOA/Board recognizes that a good policy recommendation has several features:

- It identifies a problem and proposes a solution,
- It is supported by data,
- It is transparent to the community,
- It is clear, understandable, trainable and acceptable to the Police Department, and
- It has a good chance of being adopted.

There were *two* policy recommendation letters for SOP 1-2 (social media) and Use of Force Policy Suite (2-52 through 2-57) sent to APD by the CPOA Board. The letter of recommendations can be found in the Appendix section *III-21 & 25*. Extensive discussions also took place at the Policy and Procedures review Sub-Committee, APD Policy and Procedure Unit (formerly Office of Policy Analysis) and APD Policy and Procedures Review Board. Many concerns were raised with the Subject Matter Experts (policy owners), and several comments and suggestions were provided at these meetings to bring changes in the SOPs early in the process.

CPOAB Training Status

Section § 9-4-1-5-G-6 of the revised Oversight Ordinance stipulates *"The Director shall track training progress for each Board member, verify completion of the initial and on-going training requirements for each Board member, and include this information for each Board member as part of the semi-annual reports required by this article"*. Section § 9-4-1-5-G-(1-4) lists all the

² *The New World of Police Accountability, Third Edition by Samuel E. Walker & Carol A. Archbold*

orientations and trainings that are mandated as well as recommended to be completed by members of the Board. This include;

(1) Required Orientation. Prior to participation in any 20 meeting of the Board, a newly appointed member must first:

(a) Be trained by the CPOA staff or CPOA legal counsel on CPOA policies, and procedures; and

(b) Attend at least one Board meeting as an observer (except for reappointed members).

(2) Required Training. The city shall provide, and each Board member shall complete, a training program within the first six months of the member's initial appointment that consists, at a minimum, of the following:

(a) Training on the 2014 DOJ Settlement Agreement with the City of Albuquerque (or any subsequent agreements), and Findings Letter of April 10, 2014 (or any subsequent findings letters);

(b) Training on this ordinance and the duties, obligations, and responsibilities that it imposes on Board members and the CPOA;

(c) Training on State and local laws regarding public meetings and the conduct of public officials, including but not limited to inspection of public records, governmental transparency, ethics;

(d) Training on civil rights, including the Fourth Amendment right to be free from unreasonable searches and seizures, including unreasonable uses of force;

(e) Training on all APD policies related to use of force, including policies related to APD's internal review of force incidents;

(f) Training provided to APD officers on use of force;

(g) Completion of those portions of the APD Civilian Police Academy that APD determines are necessary for the Board to have a sound understanding of the Department, its policies, and the work officers perform. For purposes of this training requirement, APD shall identify those portions of the standard APD Civilian Police Academy Program that are optional for Board members and shall make other aspects of the program available for Board members to complete independently;

(h) At least two APD ride-alongs;

(i) Internal Affairs training;

(j) A briefing that identifies and explains the curriculum of all training currently received or anticipated to be received by APD officers, including any outside training not provided by the city.

(3) Required On-Going Training. Board members shall receive eight hours of annual training to include but not be limited to:

(a) any changes in law, policy, or training in the areas outlined under subsection (2) above, as well as developments in the implementation of the 2014 DOJ Settlement Agreement (or any subsequent agreements) until such time as the terms of the agreement are satisfied; or

(b) attendance at the annual NACOLE conference, which may satisfy no more than four hours of a Board member's on-going annual training requirements;

In addition to the eight hours of on-going annual training, Board members shall also participate in at least two police ride-along for every six-months of service on the Board.

(4) Recommended Training. Board members are encouraged to attend conferences and workshops relating to police oversight, such as the annual NACOLE conference at city expense depending on budget availability. The Director, in collaboration with the City and APD, shall maintain training opportunities for members that includes, but is not limited to:

(a) Annual firearms simulation training; and

(b) Equity and Cultural Sensitivity training;

This section highlights all the required initial training/orientation, six months training as well as annual training regarding all Board members who served during this reporting period.

Per section § 9-4-1-5-G-1 of the Oversight Ordinance, members of the Board upon appointment shall complete an orientation program to include training by the CPOA staff or CPOA legal counsel on CPOA policies, and procedures and attendance of at least one Board meeting as an observer (except for reappointed members). The status of this requirement is identified in the table below:

Board Member	Initial Appointment Date	Be trained by the CPOA staff or CPOA legal counsel on CPOA policies, and procedures	Attend at least one Board meeting as an observer (except for reappointed members)
William Kass	6-6-2017	Completed	Completed
Chantal Galloway	11-20-2017	Completed	Completed
Eric Nixon	3-12-2020	Completed	Completed
Patricia French	6-4-2021	Completed	Completed
Jesse Crawford	10-4-2021	Completed	Completed
Michael Wartell	3-7-2022	Completed	Completed

Table 8. Initial training/orientation status (prior to participating in first board meeting)

Section § 9-4-1-5-G-2 of the Oversight Ordinance lists the required training that Board members shall complete within the first 6 months on serving on the Board. Table 9 below lists the status of each Board member on those trainings during the first six months of 2022 as of June 30th 2022.

Section § 9-4-1-5-G-2	Patricia French (Deadline 12-4-2021)	Chantal Galloway (Deadline 5-20-2018)	Jesse Crawford (Deadline 04-04-2022)	William Kass (Deadline 12-6-2017)	Eric Nixon (Deadline 9-12-2020)	Michael Wartell (Deadline 09-07-2022)
CASA Training (a)	Completed	Completed	Completed	Completed	Completed	No
Oversight Ordinance Training (b)	Completed	Completed	Completed	Completed	Completed	No
Public Meetings /Conduct of Public Official Training (c)	Completed	Completed	Completed	Completed	Completed	No
Civil Rights Training (d)	Completed	Completed	Completed	Completed	Completed	No
Use of Force Training (e-f)	Completed	Completed	E (completed) F (No)	Completed	Completed	E (completed) F (No)
Two APD Ride-Along (h)	No (due to external factors)	Completed	No (due to external factors)	Completed	No (due to external factors)	Completed
Internal Affairs Training (i)	No	Completed	No	Completed	No (due to external factors)	No (within deadline)

Officers Training Curriculum Briefing (j)	No (due to external factors)	No (due to external factors)	No (due to external factors)	No (due to external factors)	No (due to external factors)	No (due to external factors)
Civilian Police Academy Training (g) (CHANGED TO ANNUAL)	Completed	Completed	Partially Completed (within deadline 10-4-2022)	Completed	Completed as member of NW CPC (2018)	No (within deadline 3-7-2023)

Table 9. Required Training status (within 6 months of appointment)

External factors: training not offered, COVID-19 or other outside factors leading to non-completion

Within Deadline: Still within time frame to complete the required training

CPA trainings are now required to be completed within 1 year of initial appointment date

As of 06-30-2022

Section § 9-4-1-5-G-3 stipulates “Board members shall receive eight hours of annual training on any changes in law, policy, or training in the areas outlined under subsection (2) above, as well as developments in the implementation of the 2014 DOJ Settlement Agreement (or any subsequent agreements) until such time as the terms of the agreement are satisfied. Board members shall also participate in at least two police ride-along for every six-months of service on the Board.” Table 10 below lists the status of each Board member on the annual/required on-going trainings during the first six months of 2022.

	Patricia French (deadline 6-7-2022)	Chantal Galloway (deadline 11-20-2021)	Jesse Crawford (deadline 10-4-2022)	William Kass (deadline 6-6-2022)	Eric Nixon (deadline 3-12-2022)	Michael Wartell (deadline 3-7-2023)
Annual Training on changes in laws, policies, training as well as developments in implementation of 2014 DOJ settlement agreement	Not provided	Not provided	No (within deadline)	Not provided	Not provided	No (within deadline)
NACOLE Training	Completed	Completed	No (within deadline)	Completed	Completed	No (within deadline)
Two Ride-Along (every six months of service)	Completed One on 7-5-2022	No	No (within deadline)	No	No	No (within deadline)

Table 10. Required Annual/On-going Training status

As of 06-30-2022

Legislative Amendments to Oversight Ordinance and/or Policies and Procedures

Section § 9-4-1-10-F of the Oversight Ordinance states *“The CPOA shall be responsible for regularly informing Mayor, the City Council, and the Public by submitting semi-annual report that include; Identification of any matters that may necessitate the City’s Council consideration of legislative amendments to this Police Oversight Ordinance”*. During this reporting period, the Police Oversight Ordinance was revised. The new ordinance can be found in the following link: <https://www.cabq.gov/cpoa/documents/civilian-police-oversight-ordinance-march-2-2020.pdf>

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Appendix

I. Civilian Police Oversight Agency (CPOA) Staff

Diane L. McDermott

Interim Executive Director/Lead

Investigator

Antonio Coca

Investigator

Tressler J. Stephenson

Investigator

Misael Palalay

Investigator

Toni Rodriguez

Investigator

Juan Sotres

Investigator

Robert Grooms

Investigator

Ali Abbasi

Data Analyst

Katrina Sigala

Senior Administrative Assistant

Valerie Barela

Administrative Assistant

Kelly Mensah

Community Policing Councils Liaison

Marteessa Billy

CPC Administrative Assistant

A. CPOA Executive Director

B. Duties and Responsibilities of the Executive Director

Under the amended Oversight Ordinance, the Executive Director reports directly to the Civilian Police Oversight Agency Board (CPOAB). The CPOA Executive Director's duties are as follows:

- The staff and administration of the CPOA shall be directed by the CPOA Executive Director.
- Direct and oversee the investigation of all civilian police complaints alleging officer misconduct and prepare findings and recommendations for review by the Board for informational purposes.
- Review and monitor a representative sampling of all Internal Affairs investigations and other administrative investigations related to officer involved shooting investigations and serious uses of force investigations. The Director shall prepare findings and disciplinary recommendations, as appropriate, relating to officer involved shootings and serious uses of force. Disciplinary recommendations, if any, will be transmitted to the Chief only upon approval of the Board. The Director shall report on general trends and issues identified through monitoring or auditing of Internal Affairs.
- Provide staffing to the Board and ensure that the duties and responsibilities of the CPOA are executed in an efficient manner, and manage the day to day operations of the CPOA.
- The Director shall direct and oversee the investigation of all civilian complaints alleging officer misconduct and make findings and recommendations for such civilian complaints, or assign them for independent investigation by CPOA staff or an outside independent investigator. If assigned to staff or an outside investigator, the Director shall oversee, monitor and review all such investigations and findings for each. All findings relating to civilian complaints, officer involved shootings, and serious uses of force shall be forwarded to APD internal affairs and to the Board for its information. The Director shall make recommendations and give advice regarding Police Department policies and procedures to the Board in the context of investigative findings as the Director deems appropriate.

- Investigation of all civilian complaints filed with the CPOA shall begin immediately after complaints are filed and proceed as expeditiously as possible, and if an investigation exceeds a timeframe of nine months the Director must report the reasons to the Board.
- All civilian complaints filed with other offices within the city authorized to accept civilian complaints, including the Police Department, shall be immediately referred to the Director for investigation.
- If appropriate, mediation should be the first option for resolution of civilian police complaints. Mediators should be independent of the CPOA, APD, and the City, and should not be former officers or employees of APD. At the discretion of the Director an impartial system of mediation should be considered appropriate for certain complaints.
- The Director shall monitor all claims of officer involved shootings and serious uses of force. No APD related settlements in excess of \$25,000 shall be made for claims without the knowledge of the Director. The Director shall be an ex-officio member of the Claims Review Board.
- The Director shall maintain and compile all information necessary to satisfy the CPOA's semi-annual written reporting requirements in § 9-4-1-10.
- The Director shall have access to any Police Department information or documents that are relevant to a civilian's complaint, or to an issue which is ongoing at the CPOA.
- The Director shall play an active public role in the community, and whenever possible, provide appropriate outreach to the community, publicize the civilian complaint process, and identify locations within the community that are suitable for civilians to file complaints in a non-police environment.
- The Director shall be provided the necessary professional and/or clerical employees for the effective staffing of the Administrative Office, and shall prescribe the duties of these staff members. Such professional and clerical employees will be classified city employees. All CPOA staff with investigative duties shall be professional investigators trained in professional investigation techniques and practices.
- The Director shall report directly to the Board and lead the Administrative Office; direct and oversee the investigations of civilian complaints relating to officer misconduct, audit a representative sampling of all IA investigations of complaints, recommend and participate in mediation of certain complaints, and supervise all CPOA staff.

- The Director shall complete the initial and ongoing training requirements for Board members as prescribed by § 9-4-1-5(G) and report completion of training activities to the Chair of the Board.

II. Civilian Police Oversight Agency Board (CPOAB)

A. Volunteer Board Members

Dr. William J. Kass - Dr. William J. Kass is currently a retired physical scientist. As a private citizen, he has been active in following Albuquerque Police Department reform efforts for nearly five years. He has met with victim's family members; attended meetings with the Department of Justice, the Independent Monitor Team, the City of Albuquerque Council, the Mayor's Initiative, the Police Oversight Task Force and former and current versions of the Police Oversight Board. He has also attended several area Community Policing Councils. His interests are primarily in policy and community outreach. He serves as the chair of Policy and Procedure Review Committee and is a member of the Community Outreach Sub-Committee. He believes that police policy is public policy and the community should have a voice in creating that policy. That can only be done if the community is informed and engaged and Albuquerque Police Department responds positively to their concerns.

Email: wkass.pob@cabq.gov

Term: Appointed 06-04-2020, Expires 02-02-2023

Chantal M. Galloway - Ms. Chantal M. Galloway is currently a Vice-President of Business Services. Ms. Galloway holds a BBA from the University of Arkansas at Little Rock, as well as an MBA from the University of New Mexico. Ms. Galloway's interest in serving the CPOAB comes from her desire to be active and serve her community. Ms. Galloway has a background with for-profit and non-profit organizations and hopes to bring her skills of obtaining outcomes wherein vested parties have their concerns or opinions heard and acted upon.

Email: cgalloway.pob@cabq.gov

Term: Appointed 02-04-2019, Expires 02-02-2022

Eric Nixon - Mr. Eric Nixon is currently a Project Manager for the Department of Homeland Security. Mr. Nixon's interest in serving comes from having immersed himself in learning about social justice and equity issues that occur in the community. Mr. Nixon has served as a member of the NW Area Command CPC. This experience has given him a background for voting on and

advocating the CPC's recommendations regarding policing activities and policy changes at APD. Mr. Nixon is dedicated to performing the tasks of the Board as a resolute Board Member and impartial voice intent on finding the best solutions for ensuring APD integrity and accountability.

Email: enixon.pob@cabq.gov

Term: Appointed 03-12-2020, Expires 02-02-2024

Patricia J. French - Ms. French is a retired City of Albuquerque Employee who spent over 30 years with the Albuquerque Police Department. During her tenure at the Police Department, she served as Records Supervisor and in her final two years with the City as the False Alarm Reduction Supervisor. Ms. French also served on the Public Employees Retirement Association of New Mexico Board (PERA) for many years. She served four years as Chair of the Board. In addition to her service on the PERA Board, Ms. French has been involved in a wide range of community service activities which has included serving on the Rio Grande Credit Union Supervisory Committee, the Brookline College Criminal Justice Program Advisory Committee, First Vice President of the Retired Public Employees of New Mexico and President of American Federation of State, County & Municipal Employees (AFCME) Local 3022. Known for her commitment to representing the working class, labor, teachers, veterans, the individuals who have paid their debt to society but are still not allowed to vote, Ms. French has served her community well. Ms. French is a leadership expert who has the experience of high-energy to take on challenges presented to her. Ms. French brings unique perspectives gained from her understanding of how policies are created at APD. She was trained to perform internal investigations and has done many through her years with APD. She believes that her knowledge and expertise in reviewing investigations and knowledge of what questions to ask and what to look for are invaluable to the committee.

Email: pafrench.pob@cabq.gov

Term: Appointed 06-07-2021, Expires 02-02-2022

Jesse Crawford - Originally from Portland, Oregon, Mr. Crawford moved to New Mexico to attend New Mexico Tech. For the last six years, he has lived in Albuquerque and worked in the technology industry with a background including an MS in Information Security. He is interested in law enforcement and public safety and how they interact with social justice and believes strongly in the value of civilian oversight of law enforcement. Mr. Crawford believes that the Board can

contribute positive change in the community by providing transparent, equitable oversight of APD and demonstrating a process of accountability. Mr. Crawford has an extensive history of involvement in community organizing and volunteerism. He has volunteered with organizations working with the underhoused, poverty eradication groups, and LGBTQIA advocacy organizations.

Email: jcrawford.pob@cabq.gov

Term: Appointed 10-04-2021, Expires 02-02-2023

Michael Wartell - Mr. Michael Wartell is a retired professor and university administrator who has spent several years as a successful administrator. In addition to serving in numerous University and College leadership positions, he has held the position of Dean of the School of Natural Sciences and Mathematics at Slippery Rock University, Dean of the College of Letters and Sciences at James Madison University, and provost and vice president of academic affairs at Humboldt State University. During Mr. Wartell's final tenure as an administrator, he successfully led Indiana University-Purdue University Fort Wayne through two successful five-year strategic plans that increased enrollment, saw the completion of new facilities, and grew the budget by convincing the state legislature of its importance. As a community leader, Mr. Wartell has been a member of several boards, including the City of Albuquerque Labor Management Relations Board, the Bernalillo County Protest Board, and the Bernalillo County Detention Facility Management Oversight Board. He has also served on numerous non-profit boards in addition to these. Mr. Wartell would like to bring to the CPOA Board methods for fostering trust between the community and the Albuquerque Police Department. He is aware that this approach can be achieved through organizational transparency, professionalism, and knowledge that training deficiencies and inconsistencies in the criminal justice system all contribute towards increasing the gap between the community and law enforcement.

Email: mwartell.pob@cabq.gov

Term: Appointed 03-07-2022, Expires 02-02-2025

B. Civilian Police Oversight Agency Board Duties

The Civilian Police Oversight Agency Board (CPOAB) is tasked with the following functions:

- Promote a spirit of accountability and communication between the citizens and APD while improving community relations and enhancing public confidence;
- Review the investigations of civilian complaints for informational purposes; monitor all investigations and/or officer involved shootings under investigation by APD's Internal Affairs;
- Continue cooperation with APD and solicit public input by holding regularly scheduled public meetings;
- Review the work of the CPOA with respect to quality, thoroughness, and impartiality of investigations;
- Annually review the performance of the Executive Director;
- Remain impartial in deliberations and decisions and abstain from any independent investigation or review of information not presented by the investigation report or within the investigation file. Refrain from any ex-parte communication;
- Submit all findings to the Chief of Police;
- Review and analyze policy suggestions, analysis, studies, and trend data collected or developed by the Administrative Office, and shall by majority vote recommend policies relating to training, programs and procedures or other matters relating to APD. The CPOAB's policy recommendations shall be submitted to APD and to the City Council. The CPOAB shall dedicate a majority (more than 50%) of its time to the functions described in this subsection;
- Requests for Hearing. Any person who is dissatisfied with the investigative findings and/or recommendations of the Director may request a hearing by the Board within 30 days. The Board may modify or change the findings and/or recommendations and may make further recommendations to the Chief of Police regarding the findings and/or recommendations and any discipline imposed by the Chief of Police or proposed by the Chief of Police;
- The Board is responsible for authorizing the submission of the Director's disciplinary recommendation to the Chief.

C. Civilian Police Oversight Agency Board Sub-Committees (April 7th 2022)

Case Review Sub-Committee: Reviews Civilian Complaints alongside the CPOA Executive Director.

Members:

Eric Nixon

Jesse Crawford

Policy and Procedures Review Sub-Committee: Reviews Albuquerque Police Department policies and procedures, and makes recommendations on changes to ensure that compliance and consistency aligns with the Civilian Police Oversight Agency's mission.

Members:

Jesse Crawford

Chantal Galloway

Community Outreach Sub-Committee: Members of the Civilian Police Oversight Agency Board discuss community outreach and engagement efforts.

Members:

Chantal Galloway

Michael Wartell

Personnel Sub-Committee: Discuss business regarding Civilian Police Oversight Agency administrative human resource decisions.

Members:

Patricia French

Michael Wartell

III. Attachments

1. Chief's Non-Concurrence Letter CPC # 038-21



Interoffice Memorandum

January 10, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 038-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
3-13-3(B)(3)(a)	Not Sustained	Unfounded
1-1-4(J)(4)	Not Sustained	Unfounded

Rationale for non-concurrence of finding for 3-13-3(B)(3)(a) against Ofc. J A it

I concur with the recommendation provided by Commander G W and concurred by Deputy Chief J B as follows:

I concur with CPOA Investigator Coca on all findings of this case except for his finding on SOP 3-13-3B-3a:

"Officers shall abide by the following principles. Take appropriate action and render assistance in any instance that comes to their attention, whether on duty or off duty"

Investigator Coca reached a finding of "not sustained" meaning his investigation was unable to determine by preponderance of the evidence whether the officer complied with the policy. The allegation centers on whether Officer A knowingly allowed Operator G to drive her vehicle while intoxicated. The complainant did not offer sufficient evidence to establish any indication that Ms. G had been drinking alcoholic beverages beyond her own claims that it "reeked" in the house and that the non-itemized bill incurred at the restaurant was simply too high to be food. The Rio Rancho Police Department, an objective third party, stated they could not smell or observe any signs of intoxication and did not feel it necessary to stop the vehicle. Moreover, Officer A offered explanation of the alcohol bottles being out due to a previous event. Officers are not automatically given credit on their statements however no evidence was presented in the case or in the officer's retention file to cause me to question the credibility of that statement.

It is true there is no way for the investigation to completely establish that Operator G was not under the influence but the burden is not on her to prove she had not been drinking to the point of intoxication nor on Officer A to stop her from driving when the objective third party did not see evidence she should not be driving. I believe the proper finding in this case is UNFOUNDED.

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**Rationale for non-concurrence of finding for 1-1-4(J)(4) against Tele Comm Op. M
G :**

I concur with the recommendation provided by Commander C W and concurred by Deputy
Chief J B as follows:

I concur with CPOA Investigator Coca on all findings of this case except for his finding on SOP 1-1-4J-4:

"Personnel will not use intoxicating beverages while off duty if such use renders them unable to report for their next
scheduled tour of duty or if the use would bring discredit to the department"

Investigator Coca reached a finding of "not sustained" meaning his investigation was unable to determine by
preponderance of the evidence whether the officer complied with the policy. The allegation centers on whether
Operator G drank intoxicating beverages prior to a scheduled shift. The complainant did not offer sufficient
evidence to establish any indication that Ms. G had been drinking alcoholic beverages beyond her own claims
that it "reeked" in the house and that the non-itemized bill incurred at the restaurant was simply too high to be food.
The Rio Rancho Police Department, an objective third party, stated they could not smell or observe any signs of
intoxication and did not feel it necessary to stop the vehicle.

It is true there is no way for the investigation to completely establish that Operator G was not under the
influence but the burden is not on her to prove she had not been drinking to the point of intoxication. Moreover, the
investigation found no evidence Ms. G was unable to report for her next shift nor that her performance was
substandard in any way. I believe the proper finding in this case is UNFOUNDED.

Conclusion:

The above information constitutes the totality of non-concurrence on the part of APD. No other aspect
of the CPC investigation is contended.

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

2. Chief's Non-Concurrence Letter CPC # 093-21



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

January 11, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 093-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
1-1-4(D)(14)	Sustained	Not Sustained

Rationale for non-concurrence of finding for 1-1-4(D)(14) against Sgt. J H :

I concur with the recommendation provided by Commander R : M as follows:

Based on the evidence presented, and the fact the complainant did not cooperate with this investigation, I do not concur with the CPOA's finding of SUSTAINED nor the recommended preliminary discipline calculation. I recommend this violation be NOT SUSTAINED.

Per the Civilian Police Oversight Agency finds ... "The Executive Director recommends a Class 6 sanction be added to this SOP violation. The subject of this investigation allowed his personal animosity toward the complainant to affect his judgment. He chose to take enforcement actions against the complainant, issue a summons, while others committing similar offenses were not summoned. "

"The action appears retaliatory. There was not enough evidence to prove a violation occurred of the department's retaliation policy because the complainant did not cooperate with the investigation. "

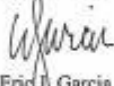
Overall review of the CD provided of the incidents in question along with Sgt. [redacted] interview statement, Sgt. H [redacted] exercised great discretion and constraint by not engaging with complainant while on both scenes as complainant repeatedly harassed and distracted Sgt. [redacted] Sgt. H continually advised and gave direction for complainant to move back and out of the scene whereupon he could continue to take video from a safer location. Each time Sgt. H [redacted] provided that direction, complainant disregarded Sgt. H [redacted] direction and made unnecessary and unwarranted comments. Sgt. H [redacted] did not have to give this same direction to others at the scene therefore, no one else at the scene was given a summons because Sgt. H [redacted] did not have to engage with the others as he continually did with the complainant.

The action "appears" retaliatory is not fact nor where facts presented which support that a violation occurred.

Conclusion:

Based on the aforementioned points of non-concurrence, The CPOA's recommended adverse finding will be replaced with the non-adverse finding of "Not Sustained." As a result, no discipline will be imposed in this case.

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

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3. Chief's Non-Concurrence Letter CPC # 109-21



Timothy M. Ketter
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

February 7, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 109-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
1-1-6(A)(3)	Sustained	Not Sustained

Rationale for non-concurrence of the above listed finding against Detective K R :

I concur with the recommendation provided by City of Albuquerque Legal as follows:

"Pursuant to §9-4-1-4(C)(3)(g) ROA 1994, I have reviewed the investigation and findings of the Civilian Police Oversight Agency (CPOA) regarding CPC 109-21, which pertained to allegations that Detective K R had violated SOP 1-1-4(D)(20) ("Personnel Code of Conduct"), which was in effect at all times relevant to the conduct at issue.

As noted in the investigation, the relevant portion of the SOP 1-1-4 is as follows: "D. On-Duty Conduct ... 20. Personnel will truthfully answer all questions specifically directed to them that are related to their employment and to all operations of the Department." (emphasis added) It follows that in order for sworn personnel to have violated this section, they must deliberately lie, conceal facts and/or circumstances, or submit information they know to be false.

In short, Detective R was alleged to have withheld information regarding promises he made to a cooperating witness in a criminal matter pending in federal court. Detective R had been tasked with assisting in a federal case. This involved working with an incarcerated witness who was expected to testify against the defendant.

It is clear that Detective R while acting in conjunction with federal authorities, was acting within the scope of his employment and that any information related to his efforts in that regard would fall

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within the scope of the SOP at issue in this matter. He had an obligation to truthfully answer any and all questions directed to him that could be related to his involvement in the federal case.

The investigation, however, did not reveal any specific fact or circumstance that would show, by way of a preponderance of the evidence, that Detective R intended to lie, conceal, or advance false information in response to any inquiries about having made promises to a witness. The investigation revealed that Detective R did not receive any formal training from the federal agencies involved with regard to how to document interactions with witnesses.

A portion of Detective R testimony was apparently the main piece of evidence in the investigation which resulted in the determination that the allegation of misconduct was sustained. That testimony was quoted in the Court's order. However, that testimony does not contain any admission that Detective R intentionally lied, concealed relevant facts or circumstances or submitted false information. Instead, the testimony reflects that the detective, upon being questioned in court, admitted that he had previously made promises and failed to disclose them, not that he was aware of having made promises when he was asked to confirm the contrary some period of time afterward.

While the Court ultimately did not find this specific statement to be credible, the Court also held clearly that it could not assign a bad faith motive to the detective's failure to disclose the promises he made to the witness. The testimony from Detective R could equally be construed that he erred by failing to properly document all of his interactions with the witness rather than deliberately concealing or lying about the relevant interactions he had with the witness.

Detective R can certainly be criticized for failing to adequately and thoroughly document his conversations with the witness, but this alone does not give rise to a finding that he violated the relevant SOP. He clearly made normal promises to a witness, but failed to properly record these in a manner which might have resulted in compliance with the Court's later verbal and written discovery rulings.

Because the available facts and circumstances in the investigation cannot fairly point to one conclusion over another by a preponderance of the evidence, I must respectfully disagree with the CPOA investigation and conclude that the alleged misconduct be deemed "not sustained." As such, the Department will take no disciplinary action against Detective R regarding this allegation.

Conclusion:

As a result of the above mentioned points of non-concurrence, the CPOA's recommended adverse finding will be replaced with the non-adverse finding of "Not Sustained" as the official resolution to this case.

Respectfully,


Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

c: Harold J. Medina, Chief of Police

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4. Chief's Non-Concurrence Letter CPC # 249-20



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

January 11, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 249-20

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
1-1-4(D)(15)	Sustained	Administratively Closed

Rationale for non-concurrence of finding for 1-1-4(D)(15) against Officer C L :

I concur with the recommendation provided by former Deputy Chief D C as follows:

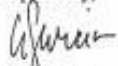
After reviewing the facts in this case, I do not concur with the findings of the CPOA. The subject was extremely disrespectful towards Officer I and Officer C. Mr. A continuously challenged any questioning by the officers in which a back and forth conversation continued throughout their interaction. Both officers displayed patience in which at no point did they raise or escalate the situation. I saw this more of a dialogue and while one would hope for it to be more productive, it was not. There were bits and pieces of comments that could have been left out by Officer I but nothing that rose to sustaining him for violating the policy. This is considered a minor policy violation and not significant of a pattern of misconduct.

Based on the facts of the case, this violation will be found **Administratively Closed**.

Conclusion:

Based on the aforementioned points of non-concurrence, The CPOA's recommended adverse finding will be replaced with the non-adverse finding of "Administratively Closed." As a result, no discipline will be imposed as it relates to this change.

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

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Non-Concurrence Memo / CPC 249-20

5. Chief's Non-Concurrence Letter CPC # 250-20



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

February 7, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 250-20

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
2-52-4(F)(1)(a)	Exonerated	Unfounded

Rationale for non-concurrence of the above listed finding against Officer S [REDACTED]

I concur with the recommendation provided by Commander G [REDACTED] W [REDACTED] as concurred by Former Deputy Chief D [REDACTED] Q [REDACTED] as follows:

The act alleged against Officer L [REDACTED] related to the above listed policy does not constitute a Use of Force. Officer L [REDACTED] was alleged to have "squeezed" Ms. C [REDACTED]'s fingers during the pat down, but this could not be corroborated by the investigation. Additionally, Officer L [REDACTED] denied the allegation and the reported victim was not cooperative with the investigation. Since the above listed policy applies only to those situations involving a Use of Force, it is determined that the more appropriate finding in that regard is Unfounded. Moreover, applying the finding of Exonerated indicates that the act as alleged occurred but did not violate policy. This characterization would be inaccurate given the circumstances and since no UOF occurred, and instead, the characterization of Unfounded, which indicates that the allegation did not occur, would be more appropriate.

Conclusion:

As a result of the above mentioned points of non-concurrence, the CPOA's recommended finding will be replaced with the finding of "Unfounded" as the official resolution to that portion of the case.

6. Chief's Non-Concurrence Letter CPC # 100-21



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

January 10, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 100-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
2-42-3(A)(1)	Sustained	Exonerated

Rationale for non-concurrence of finding for 2-42-3(A)(1) against Ofc. K S , Sgt. J H Ofc. M W , and Sgt. D G :

I concur with the recommendation provided by Deputy Chief J B as follows:

Facts

- no driving witnessed by sworn personnel
- no MVA or other collision
- contact with individual was several hours post-driving
- individual admitted driving but hours before and not since
- individual admitted drinking but not before driving and had been at or near the location und on foot for hours
- residents wanted the individual to leave
- sworn personnel did not make an arrest
- sworn personnel arranged a ride to a place to stay

Probable Cause to Arrest & Totality of Circumstances

Sworn personnel *may* have reasonable grounds to believe that a suspect had been driving while under the influence based on the totality of circumstances they observed. Sworn personnel do not necessarily have to eyewitness a person operating a vehicle in order to make this conclusion. However, without observation of driving (or evidence of a collision), it becomes much more challenging.

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One published case that serves as a good example is *State v. Longs*, 1998-NMCA-076, in which an officer came upon an accident scene. The accident had happened shortly before. The driver was still on scene. The driver's breath smelled strongly of alcohol. The driver had watery and bloodshot eyes, slurred speech, and was unable to successfully complete FSTs.

Here, sworn personnel had zero facts at their disposal to suggest that the individual had been operating a vehicle *contemporaneously* with their contact with him rather than hours beforehand. Similarly, they had no evidence that the individual's impairment coincided in any way with operating a motor vehicle.

Time Delay Between Alleged Vehicle Operation and Contact with Individual

Timing is an essential element of DWI. At trial, the State must prove a nexus between a BAC of 0.08 or more and the time the driver operated a motor vehicle. A blood or breath alcohol test administered *over two hours* after the time of driving, and yielding only marginal results, must be corroborated by additional evidence to support a verdict for DWI. Otherwise, a conviction cannot stand. *State v. Baldwin*, 2001-NMCA-063.

In the situation at hand, sworn personnel would have been unable to substantiate a nexus between driving and impairment. Sworn personnel did not observe any operation of a motor vehicle. There was no collision. While the driver was clearly impaired when they encountered him, there was no apparent nexus between the impairment and any actual period of operating a motor vehicle. There were no available facts or circumstances that would support a determination that the driver had been operating the vehicle *while* he was impaired. In other words, the available facts/circumstances could just as easily result in a conclusion that the driver became impaired *after* driving.

Ramifications of Delayed Breath or Blood Test

While there is no set amount of time by which a test must be administered, even a breath test conducted 90 minutes after driving would need to be supported with additional evidence in order for a conviction to stand. *State v. Martinez*, 2002-NMCA-043. By contrast, a blood test conducted 4 hours after a collision is not automatically excluded from evidence provided it is buttressed by expert testimony. *State v. Hughey*, 2007-NMSC-036. This distinction is likely due to the difference between breath and blood tests and what the results can tell us.

In the present case, a blood draw would not have been permitted at all. SOP 2-42-3(F)(1) allows a blood draw "for felony cases involving great bodily harm or death by motor vehicle and the driver is injured or incapacitated after a warrant is obtained." Again, there was no crash here.

Conclusion

Sworn personnel in the situation at hand did not have legal authority to make an arrest for any criminal offense. They had no evidence of any nexus between actual operation of a motor vehicle and impairment. Had an arrest been made in this case, it is almost a certainty that the matter would not result in a conviction at trial. This assumes that a judge or prosecutor wouldn't dismiss the complaint outright at the first appearance.

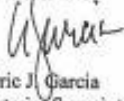
Finding

I find that all officers involved in this case, Officer S , Sergeant F , Officer W and Sergeant C are all exonerated. No further action is required.

Conclusion:

Based on the aforementioned points of non-concurrence, and the changing of the CPOAs adverse finding to a non-adverse finding, no discipline will be imposed on the involved Officers in this case.

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

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Non-Concurrence Memo / CPC 100-21

7. Chief's Non-Concurrence Letter CPC # 134-21



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

January 10, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 134-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
1-1-4(A)	Sustained	Not Sustained
1-1-5(A)(1)	Sustained	Not Sustained

Rationale for non-concurrence of finding for 1-1-4(A):

I concur with the recommendation provided by Deputy Chief C B as follows:

The investigation cited court case: KNIGHT FIRST AMENDMENT INSTITUTE AT COLUMBIA UNIVERSITY, PLAINTIFFS: BUCK WALTER, COHEN, FIGUEROA, GU, NEELY, PAPP, and PAPPAS, V. DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES.

However, there are conflicting rulings by different federal circuit courts, and the cases are focused on whether elected officials may ban constituents from their social media pages without violating their constituents First Amendment rights.

Mr. G is not an elected official.

Campbell v. Reisch

The court held that Cheri Toalson Reisch, a Republican state representative for Missouri's 44th District, is entitled to block a constituent on Twitter without violating her constituents First Amendment Rights.

The majority distinguished Trump and Davidson by noting that Representative Reisch conducted little official business on her Twitter account.

Page 1 of 3
Non-Concurrence Memo / CPC 134-21

"The First Amendment, by its terms, prohibits only governmental abridgement of speech. By not interfering with private restrictions on speech, the amendment protects a robust sphere of individual liberty. Similarly, for a claim to succeed, a defendant must have acted under color of state law. It is not enough that the defendant is a public official, because acts that public officials take in the ambit of their personal pursuits do not trigger liability."

The investigator also referenced Administrative Instruction 2-25 (2016) which states that no City managed social media account is allowed to block or restrict the public from viewing content or postings made by the City account. The investigator further noted:

- Mr. G "positioned himself and has taken on the role as a government actor" after he blended APD related content on his account.
- There should be checks and balances so that this does not happen again.
- The investigation also showed that there were no work emails that linked Mr. G twitter page to his work.
- A stated that this led to confusion on his end. A later learned that G had blocked him because this account is a personal account.

Mr. G blended his accounts by retweeting APD related content; however, this content is available on the official APD Twitter account. The official APD Twitter account should be the account the public uses to obtain information. Subsequently, I do not concur with the findings of the investigator. Additionally, there is conflicting case law specific to this allegation.

Rationale for non-concurrence of finding for 1-1-5(A)(1):

I concur with the recommendation provided by Deputy Chief Cecily Barker as follows:

1-1-5 A 1

General Conduct and Responsibilities, Public Welfare

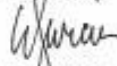
Department personnel shall treat the public with respect, courtesy, and professionalism at all times.

The investigation noted that Mr. G did not have the capability of blocking anyone on his personal page because he portrayed himself as a government actor. The investigator noted, "G calling A and/or others 'troll and butthurt' violates general guidelines." There is no evidence to show who Mr. G was referring to. The comments were generalized and made on his personal Twitter page, which the investigation showed there were no notifications linking Mr. G city email to his personal Twitter account.

Conclusion:

Based on the aforementioned points of non-concurrence, it is further deemed appropriate to reject the CPOA's discipline recommendation of an 8 hour suspension, and instead impose the mitigated penalty recommended by Deputy Chief C B of a written reprimand.

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

Page 3 of 3
Non-Concurrence Memo / CPC 134-21

8. Chief's Non-Concurrence Letter CPC # 140-21



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

January 11, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 140-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
All Policies	All Findings	Administratively Closed

Rationale for non-concurrence of all findings in this against Officer D B , Officer M U and Sergeant T J :

I concur with the recommendation provided by Deputy Chief J B as follows:

After receiving CPC 140-21, I conferred with IAPS, Commander C who confirmed that this incident has already been investigated by IAPS and all discipline imposed. CPC 140-21 is duplicative of I-2021-439 and I am Administratively Closing CPC 140-21 as it has already been investigated by IAPS with no further action required for all officers and Sergeant involved.

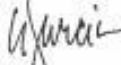
I B Admin Closed
M U -Admin Closed
Sergeant T J Admin Closed

RECEIVED 0000

Conclusion:

Based on the aforementioned points of non-concurrence, The CPOA's recommended findings in this case will be nulled and replaced with the disposition of "Administratively Closed" for all involved officers. As a result, no further discipline or other action will be imposed as it relates to these allegations, other than what has been determined in the duplicative Internal Affairs case.

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

Page 2 of 2
Non-Concurrence Memo / CPC 140-21

9. Chief's Non-Concurrence Letter CPC # 149-21



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

January 11, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 149-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Recommended Discipline	APD Recommended Discipline
2-60-4(A)(5)(b)(d)(f)	Verbal Reprimand	NDCA
1-1-6(A)(1)	8 Hour Suspension	Letter of Reprimand

Rationale for non-concurrence of the above listed discipline related to the violation of policy 2-60-4(A)(5)(b)(d)(f) against Officer H C :

I concur with the recommendation provided by Deputy Chief J B as follows:

"This is the Officers first infraction of said offense and does not have a continued pattern nor practice of policy violations. Following the presumptive discipline and the DAP, NDCA is sustained. No further action required."

Rationale for non-concurrence of the above listed discipline related to the violation of policy 1-1-6(A)(1) against Officer H C -H :

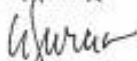
I concur with the recommendation provided by Deputy Chief J B as follows:

"This is the Officers first infraction of said offense and does not have a continued pattern nor practice of policy violations. Following the presumptive discipline and the DAP, Letter of Reprimand is sustained. No further action required."

Conclusion:

Based on the aforementioned points of non-concurrence, APD is revising the CPOA's recommended discipline in this case as indicated above. The CPOA's recommended discipline in this case is being downgraded due to the Officers' lack of previous history of policy violations, however, all of the revisions remain within the min – max range for each policy violation.

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

Page 1 of 2
Non-Concurrence Memo / CPC 149-21

10. Chief's Non-Concurrence Letter CPC # 155-21



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

January 11, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 155-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
1-1-5(A)(1)	Sustained	Exonerated
2-92-4(C)(4)(b)(i)	Sustained	Unfounded
2-60-4(A)(1)	None	Sustained

Rationale for non-concurrence of the above listed findings against Officer T W :

I concur with the recommendation provided by Deputy Chief J B as follows:

After review of the attached documentation the alleged violation of SOP 1-1-5 did not occur. Officer W did use the word "damn" when speaking to the caller but it was not used in a profane and unprofessional manner and does not violate policy. I do not concur that Officer W is unprofessional but did lack follow up when alerted to possible narcotics possession and the reason the female stated she was angry. The actual SOP that should have been issued for the lack luster investigation and follow-up is 2-60-4A1

A. Preliminary Investigations

1. Field Services officers will conduct preliminary investigations on all felony and misdemeanor crimes and any other incidents of a suspicious nature. ie. Possession of meth

I do concur with Commander S that SOP 2-92-4C4bi does not apply statutorily in this case. I also followed up with Commander R. E who wrote the CACU, SOP and he concurred that it does not meet the statutory requirements.

Page 1 of 2

This is the Officers first infraction of said offense and does not have a continued pattern nor practice of policy violations. NDCA sustained, No further action required.

Conclusion:

Based on the aforementioned points of non-concurrence, APD is revising the CPOA's recommended findings as indicated above. Additionally, based on the new findings (which replaced two sustained sanction 6's with a sustained with a sanction 7), the CPOA's recommended corrective action is being downgraded from a written reprimand to an NDCA due to the Officer W lack of previous history of policy violations

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

Page 2 of 2
Non-Concurrence Memo / CPC 155-21

11. Chief's Non-Concurrence Letter CPC # 159-21



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

January 21, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 159-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of discipline:

Policy	CPOA Recommended Discipline	APD Recommended Discipline
2-60-4(A)(5)(b, d, f)	Verbal Reprimand	NDCA

Rationale for non-concurrence of the above listed discipline related to the sustained policy violation against Officer K F :

I concur with the recommendation provided by Commander I I , as concurred by Deputy Chief J B follows:

5. Recommended Discipline (Explain any deviation from Chart of Sanctions):

NDCA – Per Chart of Sanctions and DAP

Officer F was still on OJT or on the job training, was not even on his own. New officers will make mistakes and not conduct proper of thorough investigations to documentation. His current supervisor and myself will meet with Officer F for a subordinate counseling

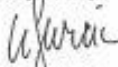
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Page 1 of 2

Conclusion:

Based on the aforementioned points of non-concurrence, the CPOA's recommended discipline of a Verbal Reprimand will be replaced with NDCA (non-disciplinary corrective action) as the final disposition for the above listed sustained policy violation against Officer K F .

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

Page 2 of 2
Non-Concurrence Memo / CPC 159-21

12. Chief's Non-Concurrence Letter CPC # 170-21



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

January 21, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 170-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of discipline:

Policy	CPOA Recommended Discipline	APD Recommended Discipline
2-40-3(G)(1)	Verbal Reprimand	NDCA

Rationale for non-concurrence of the above listed discipline related to the sustained policy violation against Officer N C :

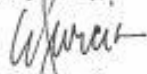
I concur with the recommendation provided by Lt. L D , as concurred by Deputy Chief J B follows:

I reviewed CPC case 170-21 as acting Commander. Investigator Coca recommended training for Officer C in reference to 2-40-3G3. Officer C failed to document witness statements and contact info for witnesses related to this traffic accident. It is unknown if he attempted to make contact with them after they gave their information. Officer C was also investigated for SOP 2-40-3G1. An overview and training for conducting traffic investigations would benefit Officer C

Conclusion:

Based on the aforementioned points of non-concurrence, the CPOA's recommended discipline of a Verbal Reprimand will be replaced with NDCA (non-disciplinary corrective action) as the final disposition for the above listed sustained policy violation against Officer N C .

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

Page 2 of 2
Non-Concurrence Memo / CPC 170-21

13. Chief's Non-Concurrence Letter CPC # 174-21



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

January 21, 2022

To: Dianne McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 174-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
1-1-4(A)	Sustained	Not Sustained
1-2-4(A)(1)	Sustained	Not Sustained

Rationale for non-concurrence of the above listed findings against Public Information Officer
R A :

I concur with the recommendations provided by Chief of Staff E F as follows:

1. FINDINGS: CPOA Recommendation: SUSTAINED

Recommendation: NOT SUSTAINED

1.1.4 Authority of Federal, State, and Local Laws and Regulations

A. Department personnel shall obey the United States Constitution, the Constitution of the State of New Mexico, the New Mexico Governmental Conduct Act, the City of Albuquerque Code of Ordinances, the City's Administrative Instructions, the City's Personnel Rules and Regulations, and all Department Standard Operating Procedures (SOP), directives and orders.

The investigation cited court case: KNIGHT FIRST AMENDMENT INSTITUTE AT COLUMBIA UNIVERSITY, PLAINTIFFS: BUCKWALTER, COHEN, FIGUEROA, GU, NEELY, PAPP, and PAPPAS, V. DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES.

There are conflicting rulings by different federal circuit courts, and the cases are focused on whether elected officials may ban constituents from their social media pages without violating their constituents First Amendment rights.

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JAN 24 '22 PH4:48

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Non-Concurrence Memo / CPC 174-21

Ms. A is not an elected official.

Campbell v. Reich

The court held that Cheri Toalson Reich, a Republican state representative for Missouri's 44th District, is entitled to block a constituent on Twitter without violating her constituents First Amendment Rights. The majority distinguished Trump and Davidson by noting that Representative Reich conducted little official business on her Twitter account.

"The First Amendment, by its terms, prohibits only governmental abridgement of speech. By not interfering with private restrictions on speech, the amendment protects a robust sphere of individual liberty. Similarly, for a claim to succeed, a defendant must have acted under color of state law. It is not enough that the defendant is a public official, because acts that public officials take in the ambit of their personal pursuits do not trigger liability."

The investigator also referenced Administrative Instruction 2-25 (2016) which states that no City managed social media account is allowed to block or restrict the public from viewing content or postings made by the City account. The investigator further noted:

- Ms. A positioned herself and has taken on the role as a government actor- after she blended APD related content on her account.
- The employee blocked the citizen which violated citizens 1st Amd right.

Ms. A "Re-Tweeted PUBLIC AVAILABLE PRE-SENT" tweets, this content is available on the official APD Twitter account. The official APD Twitter account should be the account the public uses to obtain information. Subsequently, I do not concur with the findings of the investigator. Additionally, there is conflicting case law specific to this allegation.

I do NOT concur with the CPOA Investigator and find the allegation NOT SUSTAINED.

2. FINDINGS: CPOA Recommendation: SUSTAINED

Recommendation: NOT SUSTAINED

1-2-4A.1

A. Permitted Social Media Use

1. Department personnel may speak out on issues of public concern when acting as a private person. Department personnel shall include a disclaimer if they are commenting on City business in their personal capacity and state the comments represent their own opinions and do not represent those of the City.

The investigation showed that Ms. A spoke out on issues of public concern; however, she did have and included a disclaimer stating that the comments represented her own opinions.

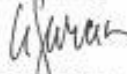
The amount of language barring a specific city approved "exact disclaimer" is up for interpretation. Ms. A had a disclaimer and was within the policy at the time of her tweets.

I do NOT concur with the CPOA Investigator and find the allegation NOT SUSTAINED.

Conclusion:

Based on the aforementioned points of non-concurrence, the CPOA's recommended adverse findings will be replaced with the non-adverse finding of "Not Sustained." As a result, no further action and/or discipline will be imposed in this case.

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

Page 3 of 3
Non-Concurrence Memo / CPC 174-21

14. Chief's Non-Concurrence Letter CPC # 224-21



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

January 24, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 224-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of discipline:

Policy	CPOA Recommended Discipline	APD Recommended Discipline
2-5-4(G)(4)	8 hour suspension	Written Reprimand

Rationale for non-concurrence of the above listed discipline against Officer A: G :

I concur with the recommendation provided by Commander J V as concurred by Deputy Chief M S: follows:

Through the investigation it was found through the preponderance of the evidence, that Officer G did in fact use an E-cigarette while in his patrol car with a prisoner in the back seat. Officer G clearly admitted this policy violation (2-5-4-G-4) to his direct supervisor, during his CPC interview and on his lapel camera. Officer G also apologized to the prisoner for using his E-cigarette. Officer G took full responsibility for this violation and took necessary self-corrective action so this violation would not occur again. The CPC investigator recommended an 8 hour suspension in the DAP. After my review of the investigation, the DAP and Officer G discipline card, I recommend that Officer G receive the minimum discipline for a first offense, Class 5 violation (**Letter of Reprimand**). This is his first sustained Class 5 violation in the last 2 years. This is the first time he has violated this policy, he took corrective action on his own and took full responsibility for his actions.

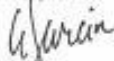
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FEB 15 '22 PM 12:49

Page 1 of 2
Non-Concurrence Memo / CPC 224-21

Conclusion:

As a result of the above mentioned points of non-concurrence, the CPOA's recommended discipline will be changed from an 8 hour suspension to a Written Reprimand as the official resolution to this case.

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

Page 2 of 2
Non-Concurrence Memo / CPC 224-21

15. Chief's Non-Concurrence Letter CPC # 214-21



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Eric J. Garcia
Interim Superintendent of Police Reform

Interoffice Memorandum

January 11, 2022

To: Diane McDermott, Interim Executive Director, CPOA
From: Eric J. Garcia, Interim Superintendent of Police Reform/DCAO
Subject: Non-Concurrence of Findings and/or Discipline re: CPC 214-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
2-1-10(D)(4)(a)	Sustained	Administratively Closed
1-1-5(A)(4)	Exonerated	Sustained

Rationale for non-concurrence of the above listed findings against Telecommunications Operator N G :

I concur with the recommendation provided by Emergency Communications Center Director E W as concurred by Deputy Chief J G follows:

A review of the investigation completed by the Civilian Police Oversight Agency on CPC 214-21 was completed.

Ms. N G was charged with two SOP violations. The first is 1-1-5 A.4 which states "Department personnel shall obtain information from the public in a professional, prompt, and courteous manner, and they shall then act upon it in a proper and judicious manner within the scope of their duties. The CPOA investigation found this SOP violation to be exonerated.

The second SOP is 2-01-1-D4a which states "The 911 Operator will be responsible for obtaining information necessary to determine if the call is an emergency as soon as possible. a. If the call is an emergency, the operator will obtain the pertinent information for dispatch and create a call for service using the incident initiate form in the CADS System". The CPOA found this SOP violation to be sustained. No sanction is assigned to the specific SOP selected.

RECEIVED CPOA
JAN 13 '22 4:09:11

Page 1 of 2
Non-Concurrence Memo / CPC 214-21

In reading the case and reviewing her actions or her lack of actions, her failure to enter a call for service is certainly concerning.

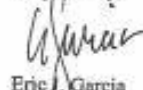
I believe Ms. C is actually in violation of 1-1-5A4 since she did not act upon the information provided by the caller in a proper manner. She clearly realized, during her interview, that she should and would have entered a call for service, but after two checks in the CAD system, a call for service was not located. SOP 1-1-5A4 speaks to ".....act upon it in a proper manner....." which she did not do.

I recommend Ms. G be found in violation (sustained) of SOP 1-1-5-A.4 which is a level 6 sanction and a written reprimand would be the appropriate discipline. 2-01-1-D4a is duplicative in language to 1-1-5-A.4 and I believe 2-01-1-D4a should be administratively closed due to 1-1-5A4 already stating personnel "shall obtain information from the public.....and act upon it in a proper and judicious manner".

Conclusion:

As indicated above, the basis for the aforementioned points of non-concurrence is the suitability of the policy and sanction applied to the conduct/circumstances involved in this case. Policy 1-1-5(A)(4) was determined to be the more appropriate policy to apply due to the fact that it possess language and an applied sanction that are both appropriate for the issue(s) in the case. As a result, the CPOA's findings will be revised as indicated above and we will proceed with a written reprimand as resolution for the adverse finding, rather than the CPOA's initially recommended 16 hour suspension based on their application of a sanction 4 to the originally sustained policy.

Respectfully,



Eric J. Garcia
Interim Superintendent of Police Reform/DCAO
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

Page 2 of 2
Non-Concurrence Memo / CPC 214-21

16. Chief's Non-Concurrence Letter CPC # 248-21

CITY OF ALBUQUERQUE

Albuquerque Police Department



Harold J. Medina, Chief of Police

March 17, 2022

Diane McDermott
Interim Executive Director
Citizen Police Oversight Agency



Re: Non-Concurrence of Discipline reference CPC 248-21

Dear Ms. McDermott:

This letter serves to convey the reasons for APD's non-concurrence in the above-mentioned administrative investigation conducted by the Civilian Police Oversight Agency (CPOA). While APD is in concurrence with the findings in each allegation, there is non-concurrence in the proposed discipline.

Policy 2-8-5.A

APD is in concurrence with the finding (sustained) and proposed discipline (written discipline).

400 Roma NW

Policy 1-1-5.A.1

APD is in concurrence with the sustained finding. However, APD finds discipline of an NDCA is appropriate. This situation involved a civilian PSA who was working in a high-crime and high-drug area. The PSA has limited training and does not carry the same presence as a fully uniformed officer. The case involves a subject who was "staring" at her and there is a desire to not appear weak by the PSA. In the video it is clear there is the distance between the PSA and the subject, thus requiring her to raise her voice. This alone is not a violation of policy. The department believes this issue is best handled through corrective counseling.

Albuquerque

New Mexico 87102

www.cpbq.gov

Discipline Imposed

Violation of policy 2-8-5.A [6] - Written Reprimand

Violation of policy 1-1-5.A.1 [6] - Non-Disciplinary Corrective Action

Sincerely,

Eric J. Garcia
Interim Superintendent of Police Reform
EG:ml

17. Chief's Non-Concurrence Letter CPC # 191-21

CITY OF ALBUQUERQUE

Albuquerque Police Department



Harold J. Medina, Chief of Police

March 1, 2022



Diane McDermott
Interim Executive Director
Citizen Police Oversight Agency

Re: Non-Concurrence of Discipline reference CPC 191-21

Dear Ms. McDermott:

This letter serves to convey the reasons for APD's non-concurrence in the above-mentioned administrative investigation conducted by the Civilian Police Oversight Agency.

Reference alleged policy violation SOP 2-60-4A5f, APD is in concurrence with the CPOA sustained finding. However, the CPOA recommends a verbal reprimand in the Disciplinary Action Packet related to the case. APD is non-concurrence and finds an NDCA should be the applied discipline for the violation.

400 Roma NW

Albuquerque

New Mexico 87102

www.cabq.gov

APD Deputy Chief J. B. recommends an NDCA should be imposed discipline. He agrees with the Chain of Command Recommendation form drafted by Acting Commander I. S., which states "Officer C. and his supervisor discussed the importance of documenting all relevant information during a call for service, especially if prosecution may be necessary. In addition, Officer G. will contact the witness from this incident and document any new information on a supplement report. Officer C. understands the SOP and will correct this action moving forward."

In conclusion, based on the aforementioned facts, APD is in non-concurrence with the recommended discipline by the CPOA. APD recommends an NDCA for the sustained allegation.

Sincerely,

Eric J. Garcia
Interim Superintendent of Police Reform

18. Chief's Non-Concurrence Letter CPC # 202-21

CITY OF ALBUQUERQUE

Albuquerque Police Department



Harold J. Medina, Chief of Police

March 15, 2022



Diane McDermott
Interim Executive Director
Citizen Police Oversight Agency

Re: Non-Concurrence of Discipline reference CPC 202-21

Dear Ms. McDermott:

This letter serves to convey the reasons for APD's non-concurrence in the above-mentioned administrative investigation conducted by the Civilian Police Oversight Agency (CPOA). The table below is a summary of CPOA and APD findings:

400 Roma NW

Albuquerque

Policy	CPOA	APD
1-1-5.C.3	Sustained	Admin. Closed
1-1-5.A.1	n/a	Sustained
2-40-3.B.1.a.iii	Sustained	Sustained
2-17-2	Sustained	Sustained
2-41-3.A.1.b.ii	Exonerated	Exonerated
2-41-A.3.a	Exonerated	Exonerated

Policy 1-1-5.C.3 – amended to 1-1-5.A.1

New Mexico 87102

www.cabq.gov

Policy 1-1-5.C.3 states "department personnel shall not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions" and it is a sanction 4 offense. It is APD's opinion that this is not the correct policy to address the situation in question. Rather, the proper applicable policy is 1-1-5.A.1 (sanction 6), which states: "Department personnel shall treat the public with respect, courtesy, and professionalism at all times." As such, a resolution of an administratively closed finding on SOP 1-1-5.C.3 while sustaining a violation of 1-1-5.A.1. This is a first offense, class 6 violation within the performance category. As such, a written reprimand is appropriate.

Policy 2-40-3.B.1.a.iii and Policy 2-17-2

APD is in concurrence with the sustained finding and the recommended written reprimand as the two violations are class 7, thus making a class 7 second offense. A written reprimand is appropriate for these two violations.

Policy 2-41-3.A.1.b.ii and Policy 2-41-A.3.a

APD is in concurrence with the exonerated findings.

Albuquerque - Making History 1706-2006

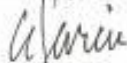
RECEIVED CPOA
MAR 25 '22 09:52

Discipline Imposed

Violation of policy 1-1-5[6] – Written Reprimand

Violation of policy 2-40-3 (Performance)[7] & 2-17-2 (Performance)[7] – Written Reprimand




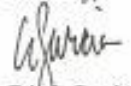

Sincerely,



Eric J. Garcia
Interim Superintendent of Police Reform

EG:ml

19. Chief's Non-Concurrence Letter CPC # 207-21

 CITY OF ALBUQUERQUE <i>Albuquerque Police Department</i>  Harold J. Medina, Chief of Police		
April 6, 2022		
Diane McDermott Interim Executive Director Citizen Police Oversight Agency		
Re: Non-Concurrence of Findings and Discipline reference CPC 207-21		
Dear Ms. McDermott:		
This letter serves to convey the reasons for APD's non-concurrence in the above-mentioned administrative investigation conducted by the Civilian Police Oversight Agency (CPOA).		
Summary of non-concurrence of discipline:		
CPOA	APD	
40 Hour suspension	80 Hour suspension	
900 Roma NW Albuquerque New Mexico 87102 www.cabq.gov	APD is in non-concurrence with the 40-hour suspension and APD recommends an 80-hour suspension and is not eligible for rehire per Deputy Chief Jon Griego. Discipline Imposed Violation of policy 2-01-10-D.4.b - 80-hour suspension Sincerely,  Eric J. Garcia Interim Superintendent of Police Reform EG:om	
		

20. CPOAB approved letter for OIS case 19-0077270

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Eric Olivas, Chair
Tara Armijo-Prewitt
Dr. William J. Kass
Gionne Ralph
Edward Harness, Executive Director

Chantal M. Galloway, Vice-Chair
Patricia J. French
Doug Mitchell
Richard Johnson
Eric Nixon

August 12, 2021

Dear Chief Medina,

Please be advised that the Civilian Police Oversight Agency Board (Board) has reviewed the officer involved shooting case from August 22, 2019, APD Case # 19-0077270. Board members reviewed this case versus the relevant Albuquerque Police Department Standard Operating Procedures in effect at the time. As you likely know, the Board discussed this case at its August 12, 2021 Board meeting.

By unanimous vote, the Board has raised concerns regarding the findings and actions taken by the Force Review Board on June 11, 2020, in the following areas:

IAFD Presentation to FRB- Officer Misconduct

PO Box 1293	Category	IA Investigation Findings
	Policy Violation	No violations were identified
	Violation of Criminal Law	No violations were identified
Albuquerque	Constitutional Violation	No violations were identified
	Violation of Personnel Rules	No violations were identified
NM 87103	Violation of Administrative rules or regulations	No violations were identified

IAFD Presentation to FRB Deficiencies / FRB Referrals

www.csbq.gov	Category	IA Investigation Findings	FRB Referrals
	Tactics	No deficiencies were identified	Tactics Deficiency
	Training	A training deficiency was identified.	Training Deficiency
	Policy	No deficiencies were identified	Policy Deficiency
	Equipment	No deficiencies were identified	Equipment Deficiency
	Supervision	No deficiencies were identified	Supervision Deficiency
			Not a tactical activation

CPOA Board Narrative and Concerns

CPOA Board Summary Narrative

The APD Supplementary Offense Report states that APD had received calls beginning around 1214 hours concerning an individual acting strangely in the vicinity of Eubank and Copper. Field Officers were dispatched to investigate over a period of the next two hours and contacted the individual during this time.

At 1501 hours another call was received at the APD 911 call center that resulted in an "alert tone" sent over the airway indicating a high priority call. Multiple field officers responded to this call as well as three SWAT officers.

At approximately 1507 a group of officers assembled some distance from the bus stop where the individual was located. They formed a squad and then proceeded to drive nearer to the bus stop. At 1510 hours, they arrived at the Boston Market and then went in a line formation in front of the bus stop. Within one minute of confronting the individual, the squad had fired multiple lethal rounds and killed the individual.

COPA Board Concerns:

During the approximately ten minutes between when the alert went out and the individual was killed:

- Traffic had not been cleared on Eubank in front of the bus stop.

- The group assembled at the Boston Market was a mix of SWAT and field officers and had no designated leader.

- Information gathered from earlier encounters was not made available to the assembled group at Boston Market.

- An operation plan was not developed.

- There did not appear to be a supervisor on scene to direct the operation.

- A de-escalation plan was not developed.

- Officers did not provide cover so that de-escalation could proceed.

- Officers placed themselves in vulnerable positions which put them in fear of their lives.

The actions of APD officers in this situation appear to not comply with the Use-of-force policy in effect at the time of the action. The specific paragraphs that apply are Paragraphs 25-4 A, B, C, E. There also appears to be training deficiencies that resulted an operational plan not being created. Further, there appears to be supervision deficiencies when no APD officer was designated to make decisions to direct the squad.

Note: Because of redactions of officers' names in the reports, it is impossible to track which officers responding to the call were part of the squad that fired on the individual, which officer saw to stop traffic, etc. Redacted names should be replaced by Officer #1, Officer #2, etc. designations so that officer actions can be tracked without identifying the officers.

IAFD Presentation Concerns / FRB Findings

Category	IA Investigation Findings	FRB Finding
Tactics	No concerns were identified	See below
Training	A training concern was identified.	See below
Policy	No concerns were identified	See below
Equipment	No concerns were identified	See below
Supervision	No concerns were identified	See below

*From April 23, 2020 FRB meeting, deadline for answers to referrals May 21, 2020.
FRB Referral: IAFD WILL REOPEN INVESTIGATION TO ADDRESS CONCERNS OF POLICY, TACTICS, TRAINING, EQUIPMENT, AND SUPERVISION. (I.E. IC NOT ESTABLISHED, PERIMETER NOT ESTABLISHED, EQUIPMENT (E.G. VEHICLE COVER NOT UTILIZED).) WHAT STEPS WE'RE TAKING TO SECURE THE SCENE AND SLOW THINGS DOWN AND WHY THIS WASN'T DONE.*

From June 10, 2020 FRB meeting,

Referral: IAFD will reopen Commander investigation to address concerns of policy, tactics, training, equipment, and supervision. (I.E. IC not established, perimeter not established, equipment (E.G. Vehicle cover not utilized).) What steps were taken to secure the scene and slow things down and why this was done.

Action Taken: IAFD Commander --- responded advising Sergeant --- conducted further investigation by interviewing Officer --- and asking him why they did not use a vehicle for cover. The officers chose not to use the vehicle for cover due to the congested traffic to maneuver through. They also feared if the individual saw them coming in the SUV, he would "engage" the stopped traffic. This is the thought process he went through to approach on foot rather than use the vehicle for cover. The verbal/ audio interview is attached in the file in IAPRO.

Update due on July 23, 2020

In light of the issues raised by the Board's review of this case, the Board respectfully requests that the Force Review Board submit written explanations for their findings to the Board, through the CPOA Executive Director, within 30 days of receipt of this letter. The Board also requests that a designated Force Review Board representative present an explanation of the FRB findings and stand for questions at the Board's October 14, 2021 meeting. Please ensure information about the person(s) providing this requested presentation is provided to the CPOA no later than Wednesday, October 6, 2021 so that the Board can ensure this information is included on its agenda in compliance with the New Mexico Open Meetings Act requirements.

21. Policy Recommendation SOP 1-2 Social Media & Chief Response

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Chantal M. Galloway, Acting Chair

Dr. William J. Kass

Diane McDermott, Interim Executive Director

Jesse Crawford

Eric Nixon

Patricia J. French

Michael Wartell

March 10, 2022

Harold Medina, Chief of Police
Albuquerque Police Department
400 Roma NW
Albuquerque, NM 87102

Re: Recommendation SOP 1-2 Social Media

Dear Chief Medina:

PO Box 1293
Albuquerque
NM 87103
www.cabq.gov

The Civilian Police Oversight Agency has recently received complaints that related to interactions with Twitter accounts that complainants perceived as being official APD media channels. It seems that APD did not intend to create this perception, but it has nonetheless lead to confusion and frustration. Most importantly, citizens have at time felt actions by APD employees to be violations of their rights---a situation that occurred because of a lack of clarity between personal and official accounts. In order to avoid future incidents, the Civilian Police Oversight Agency Board recommends an addition to APD policy to clearly distinguish official and personal social media accounts.

The Board recommends that SOP 1-2, Social Media, be revised to require that employees not have Department-sanctioned personal social media profiles. Should an employee be allowed to have a Department-sanctioned page, it should be clearly identified as an official APD presence and should not be used for any personal purpose. Such accounts should provide a disclaimer identifying them as official accounts and be routinely monitored by APD communications or another department or individual cognizant of communications policy and practices. Personal social media profiles should be prohibited from creating any appearance of being official APD outlets. Policy should advise APD personnel against tweeting APD statements, press items, or any commentary that would be perceived as coming from APD as an organization. It may be advisable to require employees to clearly state that they are speaking on their own behalf only whenever posting information or commentary related to APD.

We look forward to your response to our recommendations above, in compliance with your obligations under §9-4-1-4(C) (5) (c) of the Civilian Police Oversight Agency Ordinance.

CITY OF ALBUQUERQUE

Albuquerque Police Department



Harold J. Medina, Chief of Police



April 8, 2022

Civilian Police Oversight Agency Board
Civilian Police Oversight Agency
600 2nd St NW
Albuquerque, NM 87102

Re: APD Response to the CPOA's Formal Policy Recommendation

Dear Civilian Police Oversight Agency Board:

The CPOA's recommendation that employees not have Department-sanctioned personal social media profiles is not necessary. The City of Albuquerque's social media policy dictates the process for creating and maintaining city or department-sanctioned social media sites. Individual employees do not own city or department-sanctioned social media sites or profiles.

The current policy is clear between APD's official social media accounts and personal accounts maintained by employees of the department's communication staff. Department social media accounts are clearly identified as such and contain news and information about the department. Private, personal accounts are just that: Private, personal accounts. APD's current social media policy already outlines what is permitted social media use, as well as prohibited social media use. The existing policy does not prohibit employees from sharing posts on personal accounts that originate from the department's official account. Nor should it. The policy does include limitations on department personnel who choose to express opinions about city or department issues to ensure they are following other department policies.

The City is currently revising its Administrative Instruction dealing with social media. The revision will include new language directly dealing with personal social media accounts. Once the AI is finalized, APD's social media policy will likely need to be amended to comply with the city policy.

Sincerely,

HAROLD J. MEDINA
Chief of Police

cc: City Council President, Isaac Benton
Mayor, Tim Keller
City Attorney, Esteban A. Aguilar Jr.
James Ginger Ph. D.
United States Attorney, Elizabeth Martinez
City Clerk, Erhan Watson
APD, Acting Commander Richard Evans
APD, Acting Commander Jason Sanchez

Albuquerque - Making History 1706-2006

22. CPOAB OMA Resolution

ALBUQUERQUE CIVILIAN POLICE OVERSIGHT AGENCY BOARD RESOLUTION NO. _____

WHEREAS, the Albuquerque Civilian Police Oversight Agency Board met in regular session via videoconference on March 10, 2022 at 5:00 p.m., as required by law; and

WHEREAS, Section 10-15-1(B) of the Open Meetings Act (NMSA 1978, Sections 10-15-1 to -4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission, administrative adjudicatory body or other policymaking body of any state or local public agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times; and

WHEREAS, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and

WHEREAS, Section 10-15-1(D) of the Open Meetings Act requires the Civilian Police Oversight Agency Board to determine annually what constitutes reasonable notice of its public meetings;

NOW, THEREFORE, BE IT RESOLVED by the Civilian Police Oversight Agency Board that:

1. All regular meetings shall be held in the City Council Chambers for the City of Albuquerque on the second Thursday of every month at 5:00 p.m., or as indicated in the meeting notice.
2. The agenda for regular meetings will be posted at least seventy-two hours prior to the meeting at the offices of the Civilian Police Oversight Agency and on the Civilian Police Oversight Agency's website at www.cabq.gov/cpoa.
3. Notice of regular meetings other than those described in Paragraph 2 will be given ten days in advance of the meeting date. The notice will include a copy of the agenda or information on how a copy of the agenda may be obtained. If not included in the notice, the agenda will be available at least seventy-two hours before the meeting and posted on the Civilian Police Oversight Agency's website at www.cabq.gov/cpoa.
4. Special meetings may be called by the Chairman or a majority of the members upon three days notice. The notice for a special meeting shall include an agenda for the meeting or information on how a copy of the agenda may be obtained. The agenda will be available at least seventy-two hours before the meeting and posted on the Civilian Police Oversight Agency's website at www.cabq.gov/cpoa.
5. Emergency meetings will be called only under unforeseen circumstances that demand immediate action to protect the health, safety and property of citizens or to protect the

public body from substantial financial loss. The Civilian Police Oversight Agency Board will avoid emergency meetings whenever possible. Emergency meetings may be called by the Chairman or a majority of the members with twenty-four hours prior notice, unless threat of personal injury or property damage requires less notice. The notice for all emergency meetings shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda. Within ten days of taking action on an emergency matter, the Civilian Police Oversight Agency Board will notify the Attorney General's Office.

6. For the purposes of regular meetings, notice requirements are met if notice of the date, time, place and agenda is posted at the offices of the Civilian Police Oversight Agency and on the Civilian Police Oversight Agency's website at www.cabq.gov/cpoa.
7. Copies of the written notice shall also be provided to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings of the Civilian Police Oversight Agency Board.
8. For the purposes of special meetings and emergency meetings, notice requirements are met if notice of the date, time, place and agenda is posted at the offices of the Civilian Police Oversight Agency and on the Civilian Police Oversight Agency's website at www.cabq.gov/cpoa. Telephone notice also shall be given to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings of the Civilian Police Oversight Agency Board.
9. In addition to the information specified above, all notices shall include the following language:

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact

Katrina Sigala at 505-924-3770

at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact

Katrina Sigala at 505-924-3770.

if a summary or other type of accessible format is needed.
10. The Civilian Police Oversight Agency Board may close a meeting to the public only if the subject matter of such discussion or action is excepted from the open meeting requirement under Section 10-15-1(H) of the Open Meetings Act.

- (a) If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the Civilian Police Oversight Agency Board taken during the open meeting. The authority for the closed meeting and the subjects to be discussed shall be stated with reasonable specificity in the motion to close and the vote of each individual member on the motion to close shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in the closed meeting.
- (b) If a closed meeting is conducted when the Civilian Police Oversight Agency Board is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting and the subjects to be discussed with reasonable specificity, is given to the members and to the general public.
- (c) Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.
- (d) Except as provided in Section 10-15-1(H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by vote of the Civilian Police Oversight Agency Board in an open public meeting.

Passed by the Civilian Police Oversight Agency Board

this 10th day of March, 2022.

23. 2021 Executive Director Performance Evaluation-Letter to Council

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Chantal M. Galloway, Acting Chair

Dr. William J. Kass

Diane McDermott, Interim Executive Director

Jesse Crawford

Eric Nixon

Patricia J. Pineda

Michael Wartell

March 10, 2022

City Council President Benton, Members of the City Council, Mayor Timothy Keller, and Chief of Police Harold Medina,

The Civilian Police Oversight Agency Board (CPOAB) has not completed or approved a performance evaluation for the Executive Director of the Civilian Police Oversight Agency for 2021 as there was no permanent Director for the duration of 2021 and there is currently not a permanent Director. Additionally, there have been no goals outside of the general objectives laid out by the CASA and Ordinance by which the current Interim Director can be evaluated, and she has only been in the role since November 15, 2021.

Therefore, pursuant to the requirements in the Ordinance, § 9-4-1-7(C), the CPOAB provides Council with notice that a 2021 evaluation of an Executive Director will not occur. We thank the Council, Mayor Keller, and Chief Medina for their understanding during this time of transition in CPOA leadership and look forward to continuing to work collaboratively with you.

PO Box 1293

Thank you,

Designated by:

Chantal Galloway

Albuquerque

Chantal M. Galloway

On Behalf of the Civilian Police Oversight Agency Board

NM 87103

www.cabq.gov

24. CPOAB letter to Council extending the Interim Director's appointment

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair

Jesse Crawford, Vice Chair

Chantal M. Galloway

Eric Nixon

Michael Wartell

Diane McDermott, Interim Executive Director

March 22, 2022

Dear Council President Benton,

First and foremost, the Civilian Police Oversight Agency Board (Board) wants to thank City Council for its hard work, time, and consideration of the recent amendments to the CPOA Ordinance. The Board appreciates the opportunities it was given to provide input, and further appreciates that this input was conscientiously considered. While all of City Council and its team had a role in this process, special thanks goes to the Ordinance Amendment sponsors, Councilors Bassan, Benton, and Davis.

Second, and importantly, this communication is to provide a status update about the Board's Executive Director selection process. The Board is moving forward with interviews of qualified candidates as expeditiously as possible. Still, given the process entailed in making this hiring decision, which includes City Council confirmation pursuant to the Ordinance, § 9-4-1-7(B)(1), it is likely that the current interim directors six-month term will expire before a permanent Executive Director is hired. Having the Executive Director position filled is of paramount importance to the CPOA's ability to operate effectively and timely. Accordingly, City Council may need to consider extending the interim position until another Director is hired and in place.

In sum, the Board is actively and diligently working to fill the Executive Director position, additionally, the Chair will work directly with HR to expedite the circular and process.

Sincerely,

www.cabq.gov

Digitally signed by
Patricia J. French
DN: cn=Patricia J. French, o=City of Albuquerque

Patricia J. French,
On Behalf of the Civilian Police Oversight Agency Board

25. Policy Recommendation (Use of Force Policy Suite)

UDOSIGN envelope ID: 0428F1EC6-0998-4720-8585-8A960A88575A

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair Jesse Crawford, Vice-Chair
Chantal M. Galloway Eric Nixon Michael Wartell
Diane McDermott, Interim Executive Director

April 14, 2022

Elizabeth Martinez and Dr. James Ginger,

On Thursday, April 7th, 2022, the Board of the Civilian Police Oversight Agency held a special meeting to review and provide comment on APD policies related to use of force. These SOPs, numbered 2-52 through 2-57, recently passed review by the PPRB and their review period for the CPOAB will end shortly.

In attendance at the special meeting were the five members of the board, agency staff, Deputy Commander Maez of APD (standing in for Commander Evans), and individuals from several parties and amici to the DOJ settlement agreement. The meeting included a great deal of productive discussion of the SOP changes and the knowledge and assistance of DC Maez was much appreciated, particularly since circumstances required him to step in on short notice.

PO Box 1293 This letter summarizes the discussion during the meeting in the form of specific policy
Albuquerque recommendations, and these recommendations have been approved by the Board. Please note
that some of these recommendations apply to issues that are present in multiple places in the
policy, in which case they are organized by the location where they are most apparent and other
instances are listed in the description.

2-52 Use of Force – General

NM 87103 Throughout UOF policy, many (but not all) instances of "sworn personnel" or "officers" have been
changed to "department personnel." This change seems to be incomplete, as some policies
www.cabq.gov (especially 2-56 and 2-57) continue to use "sworn personnel" in cases where a policy should
seemingly apply to personnel such as PSAs (e.g. 2-56-4 D(1), which as written seems to allow PSAs
to leave the scene without allowing a supervisor access to their OBRD, when sworn officers must
remain). There are also cases where the use of "department personnel" appears to obligate
civilian employees to take actions for which they have not been trained or equipped. The Board
recommends that the entire policy suite be carefully reviewed for use of "sworn" vs. the more
general "department personnel." It should be ensured that the term "sworn" is used when, and
only when, it is intended to limit the scope of a policy to sworn officers. Likewise, it should be
ensured that policies which apply to "department personnel" only mandate actions that civilian
personnel can carry out, or exceptions should be made.

2-52-4 A: An attendee raised the issue that *Graham v. Connor* is mentioned several times in these
SOPs, despite the fact that 2-52-4 A(1) states that officers are held to a higher standard, and that
a different set of considerations than the well-known "Graham factors" are listed in 2-52-4 C. To

Albuquerque - Making History 1766-2006

avoid doubt as to the standards that APD uses, the Board recommends that APD remove references to *Graham* where it is not being invoked as policy. This would include 2-57-2.

2-52-5 B: The Board recommends that the language of 2e(i), "Department personnel should consider whether," be changed to "Department personnel shall consider whether." Because the phrase "consider whether" already gives significant latitude for an on-scene judgment call, the use of "shall" likely has little impact other than requiring that personnel articulate that they did consider the issue—an important aid to SUOF investigations.

2-52-5 B: The Board recommends that 4a or be modified or perhaps a new paragraph added which would require personnel to identify a person as in charge of the scene, unless an immediate threat does not allow time. In previous use of force incidents reviewed by IAFD and the CPOA, including the notable SUOF case 19-0077270 which resulted in the death of Roger Shafer, the lack of command structure has been identified as a possible contributor to less effective on-scene decision making. Experience in many fields has found that, under time and resource pressure, the lack of a central decision-making authority can lead to confusion, missed opportunities, and sometimes danger.

2-53 Use of Force: Definitions

The board identified multiple points of contradiction and confusion in this SOP, as well as some more minor mechanical errors such as terms which are defined but do not appear to ever be used elsewhere in the policy. In general, the board recommends that this SOP be carefully reviewed for consistency both with itself and other policy documents.

2-53-3 B: This definition of "complaint of pain" is potentially confusing since it seems to define the term to refer only to cases where the complaint is not credible. This has a significant impact on the interpretation of 2-52-6 F(3). That is the only use of this term in the UOF policy, with "complaint of injury" being used far more often (but not defined in 2-53). The Board recommends that this definition be removed and 2-52-6 F(3) changed to clarify its intent, particularly with regards to the difference between "complaint of injury" and "complaint of pain," which require significantly different treatment under 2-52-6 F(1)c and 2-52-6 F(3).

2-52-3 F-G: It is unclear why "Empty-Hand Takedown" and "Empty-Hand Technique" are defined separately. Additionally, the definition of "Empty-Hand Technique" is difficult to understand and seems to more describe the goals than the actual techniques. The Board recommends that these definitions be edited for clarity. The definition of "Empty-Hand Technique" should include specific examples to aid the reader.

2-53-3 L: "Feasible" is perhaps the most important word in the entire body of UOF policy, as it applies as a caveat to most requirements. This definition seems to be excessively loose and essentially changes "feasible" to mean "without creating unnecessary risk." The Board recommends that this definition be expanded, for example to include "totality of circumstances" factors which personnel should consider.

2-53-3 R: The definition of "individual" as a subject of UOF and later definition of "person" as someone other than an "individual" (2-52-3 FF) is extremely confusing. It also contradicts the way the terms are used in some parts of the policy (e.g. 2-52-6 F(1)a). The Board recommends that

these definitions be removed, and UOF policy reviewed in its entirety to ensure that there is no possible confusion between references to a subject of UOF and a bystander.

2-53-3 V: The definition of a level 3 use of force includes "use of deadly force" (3a). "Deadly force" is separately defined in 2-53-3 D. In 2-53-3 D(1), the use of a PIT maneuver on any two-wheeled or three-wheeled motor vehicle is included in the definition of "deadly force." In 2-53-3 V(3)-k, some uses of the PIT maneuver are defined as level 3 UOF, but two- and three-wheeled vehicles are not. In general, there are several cases of duplication and inconsistency between items listed in 2-53-3 V(3) and 2-53-3 D, while the latter is included by reference in the former. The Board recommends that the lists in 2-53-3 V(3) and 2-53-3 D be carefully reviewed and unified to the greatest extent possible. In the view of the Board, this would most likely consist of removing 2-53-3 V(3)d-k, and ensuring those items are all included in 2-53-3 D. This would define level 3 UOF as any use of deadly force, a critical firearm discharge, or UOF resulting in hospitalization etc.

Even more troubling, "deadly force" is defined completely separately in 2-52-6 D. Once again, there are substantive differences between this definition and the one found in 2-53. This makes all references to "deadly force" in the policy somewhat unclear. In the example of a PIT maneuver against a motorcycle, it may or may not be deadly force or a level 3 UOF depending on whether one finds the relevant sections in 2-52 or 2-53 first. One of 2-52-6 D or 2-53-3 D should be removed entirely to remove the possibility of contradiction, and whichever remains must be ensured to agree with 2-53-3 V.

2-53-3 PP: This definition of a vascular neck restraint, by describing the technique as safe and effective, appears to directly contradict 2-52-6 A(6). It is also somewhat confusing in light of the separate definition of "neck hold," 2-53-3 S. Incidentally the term "vascular neck restraint" is never used in the policy, and so the Board recommends that 2-53-3 PP simply be removed.

2-54 Use of Force: Intermediate Weapon Systems

2-54-6 C(2): The restriction on use of an ECW on a fleeing person is an important protection, but one that we understand has many exceptions in practice. The policy lists three factors to be considered in making an exception, but provides very little depth on those factors. This makes it very hard to evaluate any actual use of an ECW on a fleeing person against the policy. For example, "severity of the offense" is listed, but reasonable people might disagree on how severe an offense must be to justify use of an ECW against a fleeing person. For the protection of both officers and the public, the Board recommends that this policy be shored up by providing more detailed policy guidance on when it is appropriate to use an ECW against a fleeing individual.

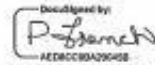
2-54-6 F(4): While the Board understands that accidental discharges of ECWs are relatively common and do not merit a UOF investigation, the choice to make an accidental discharge of an ECW which strikes a person non-reportable is concerning. These incidents are a danger to both APD personnel and the public which are often preventable through effective training and procedure. In general, "accident" is an unsatisfying explanation for pain and injury to a person, and this exception to reporting is not made for other types of weapons. The Board recommends that accidental discharges of an ECW which strike a person be made reportable.

The boards review of 2-56 and 2-57 did not generate any specific recommendations, although some of the general recommendations previously listed apply to these SOPs as well.

The Board appreciates the time and attention that APD and stakeholders have dedicated to this critical body of policy. We would also like to specifically thank Deputy Commander Maez and Commander Evans, both of Internal Affairs, for their willingness to spend so much time helping the board to analyze these changes. We look forward to your response and the continuation of this important process.

Sincerely,


The Civilian Police Oversight Agency Board by

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Patricia J. French, Board Chair


CC: Harold Medina, Chief
Cori Lowe, Deputy Chief
Esteban Aguilar Jr., City Attorney
Peter Simonson, ACLU-New Mexico
Barron Jones, ACLU-New Mexico
Robert Heckman, APD Forward
Alfred Mathewson, Esq., Community Coalition
Antonio Maestas, Esq., Community Coalition
Peter Cuba, Esq., McClendon Subclass
Larry Kronen, Esq., McClendon Subclass
Rachel Biggs, ABQ Healthcare for the Homeless
Maxwell Kauffman, Disability Rights New Mexico
Rowan Wymark, CPC
Idalia Lechuga-Tena, CPC

26. Letter from Deputy Chief Griego concerning OIS case #19-0077270



Timothy M. Keller
Mayor

City of Albuquerque
Albuquerque Police Department



Harold J. Medina
Chief of Police

April 13th, 2022

Interoffice Memorandum

To: Harold J. Medina, Chief of Police

From: J. J. Griego, Deputy Chief, Management Services and Support Bureau

Subject: CPOAB letter dated August 12th, 2021

We received this letter on 04/13/22. The CPOAB requests that the "Force Review Board submit written explanations for their findings." And also that a "Force Review Board representative present an explanation of the FRB findings and stand for questions..."

We can speak to generalities to the purpose and process of the FRB but providing specific logic behind each board members vote will not be possible. The FRB meeting was held on April 23rd, 2020. The members of the Board at that time were DCOS Ross, DC Medina, DC Gonzales, Commander Byrd, and Commander Duran. The only extant person on the Department is now Chief Medina who shared many of the concerns that the CPOAB had.

The FRB identified the concerns and a referral to Internal Affairs Force Division was made to address the concerns related to policy, tactics, training, equipment and supervision.

The policy quoted is "Paragraphs 25- 4A, B, C, E" I am assuming this is a typo as the policy is 2-52. Below is what is to be believed to be the relevant policy sections that were in effect at the time.

What I can do is speak generally to the role of FRB and the process. It is important to note that issues or concerns related to policy, training, supervision, equipment or tactics, do not automatically render a use of force out of policy. It appears that the FRB recognized all of these deficiencies however when a subject points what is perceived as a firearm at Police Officers they are permitted to use force to defend themselves and others.

2-52-4 Use of Force Requirements

A. General Requirements

1. Policing at times requires that an officer exercise control of a violent or resisting subject to make an arrest or to protect the officer, other officers, or members of the community from risk of imminent harm. Clearly, not every potential violent confrontation can be de-escalated. However, officers do have the ability to impact the direction and the outcome of many situations they handle, based on their decision-making and the tactics they choose to employ. The officer shall consider and use, where appropriate, de-escalation techniques.

2. Officers should continually assess the situation in order to increase an officer's ability to bring a situation to a safe, peaceful conclusion. This conclusion may be accomplished by using time, distance, information, isolation, teamwork, force array, coordination and other techniques, to maximize an officer's advantage.

B. Assessing the Situation

The following questions help an officer assess the "totality of the circumstances," i.e., the facts and conditions confronting an officer when making decisions. Officers should consider these questions when assessing a situation that may require use of force:

1. What resources can the officer use to de-escalate the situation or to minimize the need for the use of force?
2. Can the officer allow the person time to submit to arrest before using force?
3. Is the officer using the minimum amount of force necessary to carry out lawful objectives?
4. Is the person physically or mentally capable of complying with the officer's commands?
5. Does the officer have an opportunity to utilize additional resources or other officers to bring the situation to a peaceful resolution?
6. What is the risk of bodily harm to the subject and/or officer as a result of the officer's lawful use of force in light of the level of threat the subject posed to the officer or others?
7. Does the proximity of weapons allow the subject to access them?
8. What is the time available to an officer to make a decision? What efforts has the officer made to gain additional time?
9. What are the physical considerations for the officer, such as officer exhaustion or injury during a physical confrontation?
10. Are innocent bystanders present who could be harmed if force is or is not used?
11. Are there hostile bystanders present who are sympathetic to the subject?

C. De-escalation

1. Officers should look for opportunities to de-escalate the situation. When reasonable under the totality of circumstances and where it may be accomplished without increasing the risk of harm to the officer or others, officers should—

- a. gather information about the incident;
- b. assess the risks to the subject(s), officer(s) and general public;
- c. assemble resources;
- d. communicate and coordinate a response; and e. attempt to slow the momentum of the incident.

2. In their interaction with subjects, officers shall use advisements, warnings, verbal persuasion, and other tactics prior to escalating to the use of force, if feasible. Officers should recognize that they may be able to move to a more tactically sound position or to a position which allows greater distance between them and the subjects, in order to consider or use a greater variety of tactical options.

3. Officers are expected to recognize that their approach to a civilian interaction may influence whether a situation escalates to the need for use of force.

4. When a use of force is necessary, officers will assess each incident to determine, based on policy, training and experience, which use of force option will de-escalate or control the situation.

5. Supervisors will become involved as soon as practicable in the management of an overall response to potentially violent encounters by coordinating resources and officers' tactical actions. Supervisors should possess a good knowledge of tactics and ensure that officers under their supervision perform to Department standards.

6. A degree of force which may have been justified earlier in an encounter does not remain justified indefinitely. Force shall be de-escalated as resistance decreases.

E. Minimum Amount of Force

When force is necessary and objectively reasonable, officers shall strive to use the minimum amount of force that is feasible within the available range of objectively reasonable force options.

1. Officers need not start at the lowest level of force in every situation. Prior to using a particular force option, officers should evaluate their objectively reasonable options and select an option anticipated to minimize the level of injury to the subject and the officer while achieving the arrest or lawful objective.

2. While utilizing a particular force option, officers should continually assess whether the opportunity exists for them to safely deescalate their level of force while still achieving the arrest or lawful objectives.

3. Whether a particular use of force is the minimum amount of force necessary must be objectively judged from the perspective of a reasonable officer on the scene, rather than from 20/20 hindsight. The objective determination of "minimal" must account for the fact that officers are often forced to make split-second judgments, in circumstances that are tense, uncertain, and rapidly evolving.

27. CPOAB letter to the Court

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice Chair*

Eric Nixon *Michael Wartell*

Diane McDermott, Interim Executive Director

June 9, 2022

Honorable James O. Browning
United States District Court
Pete V. Domenici United States Courthouse
333 Lomas Blvd NW, Suite 660
Albuquerque, New Mexico 87102

Re: CPOA Board Issues for Consideration in Anticipation of July 2022 Public Hearing

Dear Judge Browning,

PO Box 1293
Albuquerque
The Board of the Civilian Police Oversight Agency (Board) has received the 15th report of the Independent Monitor. The Board appreciates the Independent Monitor's and the Court's diligence in pursuing constitutional policing in the city of Albuquerque. While the Board does not have objections to the report, the Board does wish to bring several key issues to the Court's attention. These ongoing matters have reduced the Board's ability to perform its mission, and the Board appreciates attention to these challenges.

Board Membership

NM 87103
www.cabq.gov
The Board has long struggled to maintain a full compliment. While the Board had reached nine members briefly this year, following a series of resignations and one addition we are left with only four members. The Board faces a significant monthly workload, and the severe shortage of members significantly limits its ability to attend to its basic responsibilities, and almost completely prevented the type of exploratory and policy work that has the greatest potential to improve policing. While the City Council and its staff have taken measures to accelerate the process of appointing members to the Board, their efforts have not kept pace with resignations. City Council staff have once again made changes to provide more candidates, but the Board anticipates that empty seats will continue to be a significant challenge. The time obligation involved in Board membership is thought to be a major factor contributing to difficulty in recruiting and retaining members. More broadly, considering the ongoing shortage of candidates, more fundamental changes to the recruiting and selection process may be required.

MOU Related to OBRD Video

The Board has been in the process of negotiating an MOU with APD, the City, and APOA related to OBRD footage for over a year. The purpose of this MOU is to relax the requirement that OBRD footage be redacted before release to the Board--which would significantly reduce the burden on APD in preparing materials for CPOA review. Unfortunately, negotiation over this MOU has moved very slowly. While a draft exists that has been revised several times and then approved by the Board, it has been difficult to obtain approval or requested changes from other parties. While the changes made by the MOU are relatively minor, they are expected to result in significant time savings for APD and more complete and timely access to materials for the Board. Given the exceptionally long time that this MOU has been in discussion, it is critical to "cross the finish line" and put the improved process in place.

Training

Training has also been an ongoing challenge for the Board. While the ordinance amendments made by the City Council have somewhat reduced the training burden, training remains excessive. The Ordinance's training requirements are much greater than those imposed by the CASA. While there are currently efforts underway to reduce some of the Ordinance's training requirements, even in a best-case outcome from City Council, there will be issues. For example, there has been a lack of clarity in the implementation of some CASA requirements and more Ordinance requirements. This situation may have been improved by recent changes to the training process but the training status of new Board members will need to be carefully monitored to identify any remaining problems. There have also been ongoing challenges related to training documentation and reporting. While a new process for recording of training is being implemented, it will once again require close monitoring as multiple new Board members are appointed.

Access to Materials

The Board continues to struggle with access to certain materials, particularly APD SUOF investigations. While SUOF materials are available to the Board, Board members have found the format in which they are provided to be impractical. For example, while the Board reviews SUOF cases based on their IA case numbers, the materials provided to the Board are organized by force review board meeting dates. Since the Board is often reviewing backlog cases from more than a year ago and no search functionality is available, finding the documentation related to a specific case can require a lengthy manual check of the last several years of force review board meetings.

The Board is beginning a new effort to try to arrange with APD for better access to these records, but may request assistance in resolving this roadblock to its work.

Sincerely,

Digitally signed by
Jesse Crawford
DN: cn=Jesse Crawford, o=Civilian Police Oversight Agency Board

Jesse Crawford, Vice-Chair
Civilian Police Oversight Agency Board

cc via email:

AUSA Elizabeth M. Martinez
DOJ Trial Attorney Patrick Kent
Lauren Keefe, City Attorney
Frederick Mowrer, Counsel for APOA
James Ginger, Ph.D., Independent Monitor