POLICE OVERSIGHT BOARD
CASE REVIEW SUBCOMMITTEE
Tuesday, April 4, 2017 at 10:00 a.m.
Plaza del Sol Building, 600 2nd Street NW
3rd Floor, Planning Small Conference Room

Members Present	**Others Present**
Leonard Waites, Chair	Edward Harness, Exec. Director
Joanne Fine	Michelle Contreras
Dr. Carlotta Garcia	Paul Skotchdopole
	Diane McDermott

Meeting Minutes

I. Welcome and call to order

Case Review Subcommittee Chair Leonard Waites called to order the regular meeting of the Case Review Subcommittee at 10:03 a.m.

II. Approval of the Agenda

Copies of the Agenda were distributed. A motion was made by Subcommittee Member Fine to approve the agenda. Subcommittee Member Garcia seconded the motion. The motion was carried by the following vote:

For -3: Fine, Garcia, Waites

III. Review and Approval of the Minutes

A motion was made by Subcommittee Member Fine to approve the minutes from the March 3, 2017 Case Review Subcommittee meeting. Subcommittee Member Garcia seconded the motion. The motion was carried by the following vote:

For - 3: Fine, Garcia, Waites

IV. Public Comments:

a) Mr. Jim Larson read his summary to the Case Review Subcommittee regarding his concerns. For more information, see attachment "A."

1. Subcommittee Member Fine clarified for Mr. Larson that the POB does not have access to look at the past behaviors of officers nor do they know the officers name. Director Harness is the only one that has access to look at the officers past behaviors. Additionally, the POB can access and view the CPOA findings letters and the Executive Director's recommendations for the officer's discipline, if any, on Sharepoint.

2. Discussed the CPOA's Recommendations for officer discipline and whether to include those recommendations in the CPOA Findings letter or add it as an attachment.

3. In addressing Mr. Larson's concern about the Chief's Appeal process, Mr. Harness discussed that they are trying strike a balance so that the letter has plain language in order that the public can understand the letter and that it contains what is stated in the ordinance about the appeal process.

4. Discussed the APD's multi-recording on-body cameras and that APD is moving towards the Taser platform.

5. A motion was made by Subcommittee Member Fine as quoted as follows, "…to include our recommendations for discipline in the letter to the complainant or in the case, which it may not be a civilian complaint it might be officer-involved shooting or whatever it is." Subcommittee Member Garcia seconded the motion. The motion was carried by the following vote:
For: 3 - Fine, Garcia, Waites

6. A motion was made by Subcommittee Member Fine as quoted as follows, "…that we write a letter to the Chief about this particular issue not only saying that we feel like this letter didn't answer all of the findings that we had, as an example, which we have seen in other letters, but that in addition to that, it identifies a problem in which information was shared with outside parties that we didn't have access to and that represents a problem holistically until the Taser issue is solved." [To write a question to the Chief to clarify the purchase and use of Muvi camera]. Subcommittee Member Garcia seconded the motion. The motion was carried by the following vote:
For: 3 - Fine, Garcia, Waites

7. Discussed the letters that answer the "why," which was brought up with the DOJ on May 10th.

b) Mr. Charles Arasim gave a summary to the Case Review Subcommittee regarding several topics to include on how the public can get information from other sources regarding officer discipline, his IPRA requests,

speaking during the POB meeting on specific items and the public discussion of the selection of the Executive Director.

i. Discussed and clarified that it states in the POB ordinance and the POB rules that the public can speak during specific items on the agenda.

V. CPOA Report – *Edward Harness, Executive Director.* Director Harness gave the following report:

a) Memorandum of Understanding for Mediation: The Memorandum of Understanding for Mediation was sent to the Chief's office on January 25, 2017. The Chief requested that Mr. Harness resend the MOU to him. The MOU has been forward to the legal department for review.

b) Administrative investigations re: complaints received regarding the Hawkes matter: Members agreed that the CPOA can move forward with the civilian complaints administrative investigation but not the shooting portion of the case.

VI. Review of Cases: The Subcommittee members agreed with the CPOA's findings of the following Citizen Police Complaints (CPCs) and to add them to the consent agenda for the next POB meeting scheduled on February 9, 2017.

a) **Administratively Closed Cases**

005-17 006-17 010-17

A motion was made by Subcommittee Member Fine to approve them [administrative closed cases] for review by the board as written. Subcommittee Member Garcia seconded the motion. The motion was carried by the following vote:

For: 3 – Fine, Garcia, Waites

b) **Cases investigated**

157-16 171-16 172-16 189-16 193-16

i. In CPC 157-16: There is a typo in the letter. The complaint paragraph has grammatically errors in the first sentence (the phrase "he said" is listed twice). The last paragraph in section A (there is a phrase that says "evidence, that" – remove comma after the word "evidence."

ii. In CPC 189-16: to rewrite the last paragraph on page 3, so that it is not confusing for the citizen.

iii. A motion was made by Subcommittee Member Fine to accept all five (5) those cases [cases investigated] as written and with the above-

mentioned corrections. Subcommittee Member Garcia seconded the motion. The motion was carried by the following vote:

For: 3 – Fine, Garcia, Waites

c) **CIRT Cases.**

i. Director Harness explained that CIRT cases were not available for the POB to review as the website Safelink was down.

ii. The CIRT cases Director Harness received on April 3, 2017, will be presented at the Force Review Board (FRB) on April 5, 2017.

iii. The cases review subcommittee requested that the CIRT cases that are be presented at the FRB on April 5, 2017 be tabled until the POB has a chance to go through them.

VII. Review of Appeals

The Subcommittee will bring its recommendations for the following appeal requests to the full Board for their approval. For more information on the appeal process, please go to our website located here: http://www.cabq.gov/cpoa/appeal-process

The Ordinance states that consideration for an appeal is based on the following criteria:

1. The APD policy or APD policies that were considered by the POB were the wrong policies or they were used in the wrong way; or,

2. The APD policy or APD policies considered by the POB were chosen randomly or they do not address the issues in your complaint; or,

3. The findings of the POB had no explanation that would lead to the conclusion made by the POB; or,

4. The findings by the POB were not supported by evidence that was available to the POB at the time of the investigation.

a) CPC 084-15 –

i. CPOA Assistant Lead Investigator Paul Skotchdopole clarified for the Subcommittee the citizen's complaint and the reason for his findings in the original complaint.

ii. A motion was made by Subcommittee Member Fine to recommend to not grant [sic] the appeal given that information. Subcommittee Member Garcia seconded the motion. The motion was carried by the following vote:

For: 3 – Fine, Garcia, Waites

VIII. Other business. None.

IX. Next Meeting. No meeting was scheduled.

X. Adjournment. Subcommittee Member Fine made a motion to adjourn the meeting. Subcommittee Member Garcia seconded the motion. The motion was carried by the following vote:
For 3 – Fine, Garcia, Waites

Meeting adjourned at 11:16 a.m.

APPROVED:

_____ _____

Leonard Waites, Chair Date
Case Review Subcommittee

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

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

Attachments

Thank you for the opportunity to express my concerns.

I have read the Chief's replies to the many completed POB investigations that he submitted to the POB in a letter dated March 7, 2017. I offer the following observations regarding the Chief's response to the POB.

In all cases the Chief's responses fail to articulate any reasons for disagreement with findings or final disciplinary actions and many responses also fail to address all of the allegations contained in the reports, including those sustained.

The POB has raised concerns about this to APD, the City Council, the monitor, DOJ, and the Federal Judge and yet now almost 30 months into the CASA it is still confusing to APD, the POB and the public which both agencies serve.

The confusion extends to the Chief's obligation in the Police Oversight Ordinance to write his final disciplinary decisions to complainants.

If there were any doubt about the requirements for accountability and transparency in either the Police Oversight Ordinance or the CASA, those issues should have been raised by APD and or the POB and clarified early in the implementation process.

CPA 123-16 is a prime example of the continuing problems. There were two Detectives involved in the citizen complaint made April 14, 2016, the investigation was assigned to an investigator on July 6, 2016 and the letter to the complainant was dated November 14, 2016, with a copy to the Chief.

Allegation/NBOOC	CPOA Findings Detective M	CPOA Findings Detective A
2-18-2 S 3	Sustained	Sustained
2-47-2 A 1	Sustained (NBOOC)	Sustained (NBOOC)
1-2-2 B 2	Sustained	Sustained
1-4-1 F	Unfounded	
1-39-4 B 5		Sustained (NBOOC)

Chief Eden's February 28, 2017 response " In this particular case, I *did* concur with the recommendation of a 16 hour suspension in the sustained violation of Albuquerque Police Department Standard Operating Procedure. (*sic*) In certain cases, in accordance with City Rules and Regulations, I hold part of the suspension in abeyance, provided the employee has not other similar infractions in a six-month period. In this particular case, the officer was given a 16 hour suspension with 8 hours held in abeyance, meaning the record reflects a 16 hour suspension but the officer only lost 8 hours of pay."

1

Attachment "A"

With respect to the Chief's responses, more questions are raised than answerd.

1. Which officer was disciplined?
2. Why were both officers not disciplined?
3. Which sustained violations were the bases of the discipline?
4. Did Chief Eden agree with all the sustained violations or did he change some of them?
5. Who made the 16-hour suspension recommendation and is there any documentation of the recommendation? (Note: The CPOA letter to the civilian complainant a copy of which is sent to the Chief has no disciplinary recommendation.)

   If the Director shared any disciplinary recommendations with the Chief of Police in advance of their submission to the POB necessary to help ensure timeliness pursuant to any applicable personnel or union contract requirements as clearly allowed in the ordinance, should that be reflected in the letter to the complainant?

With respect to the CPOA investigation results letter two issues are paramount. The letter to the civilian complainant contains the following statement from the bottom of Page 7 to the top of Page 8;

" Detective A stated he ran his recording during the incident and would provide it. After several requests for the video, Detective A mentioned an attorney has his lapel camera for a different case, which contained the video related to this case. The CPOA Investigator spoke to the attorney Detective A mentioned. The attorney stated he never had possession of the camera, but believed BCSO had the camera. The CPOA Investigator contacted a Captain at BCSO who researched the issue. The BCSO Captain confirmed the BCSO was able to retrieve the video needed for their investigation, but never took possession of the lapel camera. ***APD Property was contacted and they do not track the non-Taser cameras."*** *(My emphasis)*

1. This CPOA report investigation identified a potentially serious weakness in the non-Taser camera accountability and chain-of-custody reliability. This potential weakness does not appear to have been identified as a red flag in the POB review suggesting notice and a recommendation to APD. Perhaps APD may have been identified in some other communication, but

it is simply "left hanging" in the report is not mentioned further in the report or recommendations to the Chief.

OBRD sustained findings are frequently changed by the Chief, and the use of OBRD is a significant issue in recent high profile investigations and more recently a couple of hundred non-Taser (MUVI) cameras have been identified as a concern by a member of the City Council.

2. The CPOA letter to the civilian complainant states: "If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the city's Chief Administrative Officer."

   I suggest this be modified to reflect the City Ordinance and make it clear to the complainant that the Chief shall notify of his or her final disciplinary decision.

   City § 9-4-1-8 CIVILIAN COMPLAINT PROCEDURES.(C) states that "Unless a hearing is requested by the civilian complainant, within 30 days of receipt of the decision of the POB, the Chief of Police shall notify the POB and the original civilian complainant of his or her final disciplinary decision in this matter in writing, by certified mail." "If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the city's Chief Administrative Officer."

   - If the POB/CPOA receive copies of any of Chief Eden's written responses to the civilian complainants, are they tracked for his disciplinary actions and accuracy?

     (See CPC 023-15, response to IPRA)

I am a ardent supporter of the POB and CPOA staff. You all have a challenging and very difficult volunteer assignment or city job.

The US attorney general yesterday ordered a nationwide review of all reform agreements with local police departments, placing a key part of Barack Obama's legacy on criminal justice in jeopardy.

Jeff Sessions signaled in a memo filed to a federal court that "consent decrees" such as those struck in recent years with troubled departments

I worry that the recent changes to the city ordinance establishing the POB and CPOA may become yet another failed attempt to add to the already long list of studies and attempts for effective police oversight vin Albuquerque. I urge you to employ all avenues to the POB to ensure Albuquerque does not have to rely on now very tenuous DOJ support.

Attachment "A"