

Civilian Police Oversight Agency Board

Thursday, December 10, 2020 – 5:00 p.m.

Members Present:

Dr. William Kass, Chair
Eric Olivas, Vice Chair
Tara Armijo-Prewitt
Chantal M. Galloway
Doug Mitchell
Eric Nixon

Members Absent:

Others Present:

Edward Harness, CPOA
Katrina Sigala, CPOA
Valerie Barela, CPOA
Tina Gooch, Atty
Cdr. Zac Cottrell, APD
Acting Cdr. Sean Frick, APD
Esteban Aguilar Jr., City Atty
Lindsay Van Meter, Asst. City Atty
Melissa Kountz, Asst. City Atty
Pat Davis, City Council President
Chris Sylvan, City Council
Pastor David Walker, APD

Attendance: In response to the Governor's declaration of a Public Health Emergency and ban on large public gatherings, the Civilian Police Oversight (CPOA) Board meeting on Thursday, December 10, 2020 at 5:00 pm will be held via Zoom video conference.

Viewing: Members of the public will have the ability to view the meeting through GOVTV on Comcast Channel 16, or to stream live on the GOVTV website at: <https://www.cabq.gov/culturalservices/govtv>, or on YouTube at: https://www.cabq.gov/cpoa/events/copy2_of_cpoa-board-meeting-1. (Please note that the link for YouTube has not yet been generated, however, the link could easily be found on the link provided above prior to the start of the meeting). The GOVTV live stream can be accessed at these addresses from most smartphones, tablets, or computers.

The video recording of this and all past meetings of the CPOA Board will also remain available for viewing at any time on the CPOA's website. CPOA Staff is available to help members of the public access pre-recorded CPOA meetings on-line at any time during normal business hours. Please email CPOA@cabq.gov for assistance.

Public Comment: The agenda for the meeting will be posted on the CPOA website by 5:00 pm, Monday, December 7, 2020 at www.cabq.gov/cpoa.

The CPOA Board will take general public comment and comment on the meeting's specific agenda items in written form via email through 4:00 pm on Thursday, December 10, 2020. Submit your public comments to: POB@cabq.gov. These comments will be distributed to all CPOA Board members for review.

Meeting Minutes

- I. **Welcome and call to order.** Chair Dr. Kass called to order the regular meeting of the Civilian Police Oversight Agency Board at 5:04 p.m.
- II. **Mission Statement.** Chair Dr. Kass read the Civilian Police Oversight Agency Board's mission statement.
- III. **Approval of the Agenda**
 - a. **Motion.** A motion by Vice Chair Olivas to approve the agenda as written. Roll call vote taken. Motion passed.
For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass
- IV. **Public Comments**
 1. Geraldine Amato (*see attached*)
- V. **Review and Approval of Minutes.** For more information about minutes from prior CPOA Board meetings, please visit our website here:
<http://www.cabq.gov/cpoa/police-oversight-board/pob-agenda-meeting-minutes>
 - a. **Approval of Minutes from November 12, 2020**
 1. Copies of draft minutes from the November 12, 2020 Civilian Police Oversight Agency Board meeting were distributed to each Board Member electronically.
 2. **Motion.** A motion by Vice Chair Olivas to approve the minutes as written. Roll call vote taken. Motion passed.
For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass
- VI. **Reports from City Departments**
 - a. **APD**
 1. **Crash Review Board** - Commander Donovan Rivera submitted a PowerPoint Presentation titled *Crash Review Board Update July 1, 2020 – September 30, 2020 (Q1; FY21)* and it was distributed to the CPOA Board members. (*see attached*)
 2. **Internal Affairs Professional Standards Division** - Commander Zak Cottrell reported on the Statistical Data for the month of November 2020. A document titled *Civilian Police Oversight Board,*

Internal Affairs Force Division Statistical Data for the Month of November 2020 was distributed to the CPOA Board members. (see attached)

3. Internal Affairs Force Division – Acting Commander Sean Frick reported on the Statistical Data for the month of November 2020. A document titled *Civilian Police Oversight Board, Internal Affairs Force Division Statistical Data for the Month of November 2020* was distributed to the CPOA Board members. (see attached)

b. City Council

1. Council President – President Pat Davis addressed his concerns related to CPOA Board member appointments/unfilled Board positions.

c. Mayor’s Office

1. City Attorney - Esteban Aguilar Jr. presented his report on behalf of the Mayor’s Office and introduced Pastor David Walker as the new Community and Outreach Reform Advisor for APD.

d. City Attorney

1. Assistant City Attorney - Lindsay Van Meter presented her report.

e. CPC

1. Executive Director – Director Harness presented his report.

f. APOA

1. There was no report.

g. Public Safety Committee

1. Public Safety Representative – Chris Sylvan presented his report.

h. CPOA

1. Executive Director – Director Harness presented his report.

VII. Hearing on Requests for Reconsiderations

a. None

VIII. Review of Cases: The CPOA’s findings in each case listed on the agenda have been reviewed and approved by the CPOA Board. The findings become part of the officer’s file, if applicable. Copies of the full findings letters to the citizens are located at <http://www.cabq.gov/cpoa/findings-letters/civilian-complaints-pob-findings>

a. Administratively Closed Cases

219-20 247-20 257-20

1. Motion. A motion by Member Mitchell to accept administratively closed cases as presented. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

b. Unfounded

**090-20 217-20 224-20
225-20 245-20 256-20**

1. Motion. A motion by Member Armijo-Prewitt to accept the unfounded cases as presented. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

2. Motion. A second motion by Vice Chair Olivas to amend and remove CPC 245-20 from unfounded and reclassify as an administratively closed case. Roll call vote taken. Motion failed.

For: 2 - Nixon, Olivas

Against: 4 - Armijo-Prewitt, Galloway, Mitchell, Kass

3. Motion. A final motion by Vice Chair Olivas to amend and remand CPC 245-20 back to the CPOA Agency for review of the letter. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

c. Sustained Not Based on Original Complaint

179-20

1. Motion. A motion by Member Armijo-Prewitt to accept CPC 179-20 sustained not based on original complaint as presented. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

*****Fifteen-minute break began and 6:55 p.m. and the meeting reconvened at 7:10 p.m.*****

IX. Serious Use of Force Cases/Officer Involved Shooting

a. 18-0068735

1. Motion. A motion by Member Mitchell to accept the Serious Use of Force Case 18-0068735 findings of the APD Force Review Board. Roll call vote taken. Motion failed.

For: 3 - Mitchell, Nixon, Olivas

Against: 3 - Armijo-Prewitt, Galloway, Kass

2. Motion. A second motion by Chair Dr. Kass to request the investigation file for Serious Use of Force Case 18-0068735. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

b. 19-0029519

1. Motion. Motion by Member Armijo-Prewitt to accept the Serious use of Force Case 19-0029519 findings of the APD Force Review Board. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

c. 19-0063551

1. Motion. Motion by Member Galloway to accept the Serious use of Force Case 19-0063551 findings of the APD Force Review Board. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

d. 19-0068688

1. Motion. Motion by Member Galloway to accept the Serious use of Force Case 19-0068688 findings of the APD Force Review Board. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

X. Reports from Subcommittees

a. Community Outreach Subcommittee – Chantal Galloway

1. Subcommittee did not meet in November.
2. Next meeting December 15, 2020 at 3:00 p.m.

b. Policy and Procedure Review Subcommittee – Dr. William Kass

1. Met December 3, 2020 at 4:30 pm (video conference)
2. Chair Dr. Kass submitted a Policy and Procedure Subcommittee written report. (*see attached*)
3. Next meeting January 7, 2020 at 4:30 p.m.

c. Case Review Subcommittee – Eric Nixon and Chantal Galloway

1. Subcommittee did not meet in November.
2. Selection of 4th Quarter Audit Cases
 - i. Member Galloway announced CPC 097-20, 160-20 and 225-20 cases will be audited during the 4th Quarter auditing period.
3. Next meeting January 26, 2021 at 4:30 p.m.

d. Personnel Subcommittee – Eric Olivas

1. Met November 30, 2020 at 3:00 p.m. (video conference)
2. Vice Chair Olivas submitted a Personnel Subcommittee written report. (*see attached*)
3. Next meeting December 28, 2020 at 3:00 p.m.

XI. Discussion and Possible Action

a. Update on December 4, 2020 Status Conference -

United States v. City of Albuquerque No. 1:14-cv-1025-SMV

1. CPOA Board Attorney Tina Gooch provided an update on the Status Conference.

b. CPOA Board Appeal Checklist

1. **Motion.** Motion by Member Galloway to accept the CPOA Board Appeal Checklist as a guidance tool for the appeal process. Roll call vote taken. Motion passed. (*see attached*)

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

c. 2021 CPOA Board Schedule

- 1. Motion.** Motion by Member Galloway to accept the 2021 CPOA Board Schedule as presented. Roll call vote taken. Motion passed.
(*see attached*)

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

d. CPOA Board Changes to CASA

- 1. Motion.** Motion by Chair Dr. Kass to table CPOA Board Changes to CASA until the next regularly scheduled CPOA Board meeting. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

e. Subpoena Issuance and Consideration CPC 159-20

- 1. Motion.** Motion by Vice Chair Olivas to approve issuance of Administrative Subpoena's for Elijah Langston and Edmund Vigil related to CPC 159-20. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

f. APD SOP 1-15 Air Support Unit Recommendation letter

- 1. Motion.** Motion by Vice Chair Olivas to approve the APD SOP 1-15 Air Support Unit Recommendation letter as presented. Roll call vote taken. Motion passed. (*see attached*)

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

g. Memorial – Ad Hoc Work Group

- 1.** Vice Chair Olivas provided an update on the Ad Hoc Work Group and the item will be placed on the next regularly scheduled CPOA Board meeting agenda.

XII. Meeting with Counsel re: Pending Litigation or Personnel Issues:

Closed Discussion and Possible Action re: Pending Litigation or Personnel Issues

a. Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)

1. Executive Director

- i. **Motion.** A motion by Chair Dr. Kass to take a member by member vote to move into closed session for the limited purpose of discussing a personnel matter. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

--- Meeting on Personnel matters began at 8:37 p.m. and the meeting reconvened at 10:23 p.m. ---

- ii. **Motion.** Motion by Member Mitchell to reconvene into open session and that no matters other than personnel matters were discussed in closed session. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

XIII. Other Business

1. Chair Dr. Kass announced two-member terms will be expiring in March 2021.
2. Chair Dr. Kass mentioned the Denver Monitor's Office released the George Floyd report and that he will forward to CPOA Board members.
3. Vice Chair Olivas would like to see CPOA Board members rotate attendance at the City's Public Safety Committee meetings.
4. Vice Chair Olivas would like a Special CPOA Board meeting held to address APD Chief Selection.

XIV. Adjournment.

- a. **Motion.** A motion was made by Member Galloway to adjourn the meeting. Roll call vote taken. Motion passed.

For: 6 - Armijo-Prewitt, Galloway, Mitchell, Nixon, Olivas, Kass

- b. The meeting adjourned at 10:31 p.m.

APPROVED:

DocuSigned by:

Dr. William J. Kass

January 14, 2021

Dr. William Kass, Chair
Civilian Police Oversight Agency Board

Date

CC: Julian Moya, City Council Staff
Ethan Watson, City Clerk
Cynthia Borrego, City Council President (via email)

Minutes drafted and submitted by:
Valerie Barela, Administrative Assistant

Attachments

November 2 2020
Honorable Antonio

number
BACK UP PHONE

TO: APD CHIEF and/or Deputy Chief(s); ABC 2
CITY COUNCILORS; 3 MAYOR KELLER OR AND
MAYORAL AIDS; 4 CITIZEN POLICE OVERSIGHT
AGENCY'S MR HARNESSE OR BOARD MEMBERS
90 PREZ KASS
③ APD Internal Affairs DPT. Scott DUPOLE

NO ONE IN CITY GOVT TO
DATE HAS PROVIDED ME WITH A
CITY AGENT TO REVIEW WITH
ME THE SEVERAL "POLICE" REPORTS
THAT NEVER GOT FILED AT ALL, OR
FILED GROSSLY INACCURATELY, SO
THAT THE REFERENCED REPORTS
MAY BE "ON FILE" IN APD'S/IRRA
RECORDS WITH THE CITY CLERK'S
OFFICE, DESPITE THE MALFEASANCE
OF APD'S SE AREA COMMAND.

BECAUSE I STILL RESIDE WITHIN SE AREA
COMMAND I REMAIN SUBJECT TO
HARRASSMENTS THAT I HAVE NO
MINIMAL REMEDY NOR RECOURSE
IN AT LEAST BEING FREE TO HAVE
A "REPORT ON RECORD" THAT MIGHT
BE ACCESSED IN CASE OF FURTHER
FUTURE PROBLEMS.

RECENTLY I FOR EXAMPLE
HAVE ENDURED VERBAL ASSAULT AND
INTERFERENCE WITH MY U.S. POSTAL
MAIL SERVICE BY A MEAN SPIRITED
POSTAL EMPLOYEE AT THE CORNELL
STREET USPS OFFICE. THE OPTION OF
GIVING A "REPORT" TO APD HAS BEEN

APD
PREEMPTED BY ALL MY EXPERIENCES SINCE JULY
THIS USPS EMPLOYEE KNOWS MY ADDRESS 2019

②

THE MAYOR'S OFFICE TELLS
ME YOU ARE THE OVERSEER OF

NOV 6 2020

FROM G. A. 505

TO City Council
ALB City Govt
RE: CPOA's REFUSAL
TO RETURN MY
HAND COPIES

CPOA DOES NOT
NEED MY ORIGINAL
COPIES. I HAVE NO
READY ACCESS TO
HIGH QUALITY COPY
MACHINES, THE COPY
I HAVE NEEDS "WORKING
OVER" TO BE EASILY
READ. MY ORIGINALS
WOULD BE A EASIER
READ FOR ME. CPOA
WORKS OFF COMPUTER
COPY. SO WHAT IS
THE PROBLEM??

UNITED STATES POSTAL SERVICE
AIRPORT MAIL FACILITY
2100 GEORGE RD SE
ALBUQUERQUE, N.M. 87106-5629

NOV 6 FROM

TO HBACITY COUNCIL
OCTOBER 31 2020
NEVER LEST MA AND SPA



RECEIVED
SEE OVER
NOV 5 2020
IN MAILBOX
10/31/2020

PLEASE IGNORE THE
NOTES I'VE SCRIBBLED
I JUST NOTED ON NOV 5 THAT THIS
HARAZING LETTER DOES NOT
HAVE MY NAME OR ADDRESS ON IT

Dear Postal Customer:

ON THE ENVELOPE WAS ONLY THE ADDRESS

I have received numerous calls from your neighbors and also your carrier that you have been leaving your mail on top of the community mailbox. Your mail has been blowing away resulting in your neighbors and carrier having to pick up after you. Please dispose of any mail you do not want in your personal trash/recycle bin. You can also contact each sender and request to be removed from their mailing list.

SO WHAT? I has "set up" a scenario

If you continue to not dispose of your mail properly we will be forced to stop the delivery of your mail and require you to get a Post Office Box at a local Post Office.

DOES THIS SIGNIFY there have been any

Please accept our sincere apology for any inconvenience this matter may have caused you. Feel free to contact me if I could be of further assistance at 505-346-0923

"SE COMMAND" canvas

SPOKE TO THIS
MAN NOV 4TH VIA
phone
Michael Bosman
Manager Customer Service
Airport Mail Facility

Phil Chacon ST and side
800 LOUISIANA NE that has
ARBUQUERQUE NM 87108
false

with this "new" carrier - WHO? was
on duty on Thursday Oct 29. That

Your privacy is important to us. If you would like additional information on our privacy policy, please visit us online at: www.usps.com

THURSDAY THERE WAS
NOTE ABOUT

THIS HAS TO DO WITH AND
SE COMMAND PREVENTING
ME FROM
FILING CRIMINAL COMPLAINT

the
RULE
THAT
operated

Previous carrier in not placing
In fact a "Carlos" who was the
beginning carrier for me here
put a little note at the edge of
my mail box (inside) NO AFS for
the sub. carrier. Recently the
carrier has insisted on placing

ON SEPT 16 AND

SEPT 18 2020

JUST NOTICING MY NAME AND THE COLUMBIA ADDRESS

IS NOTION 51

SAT NOV 7 2020

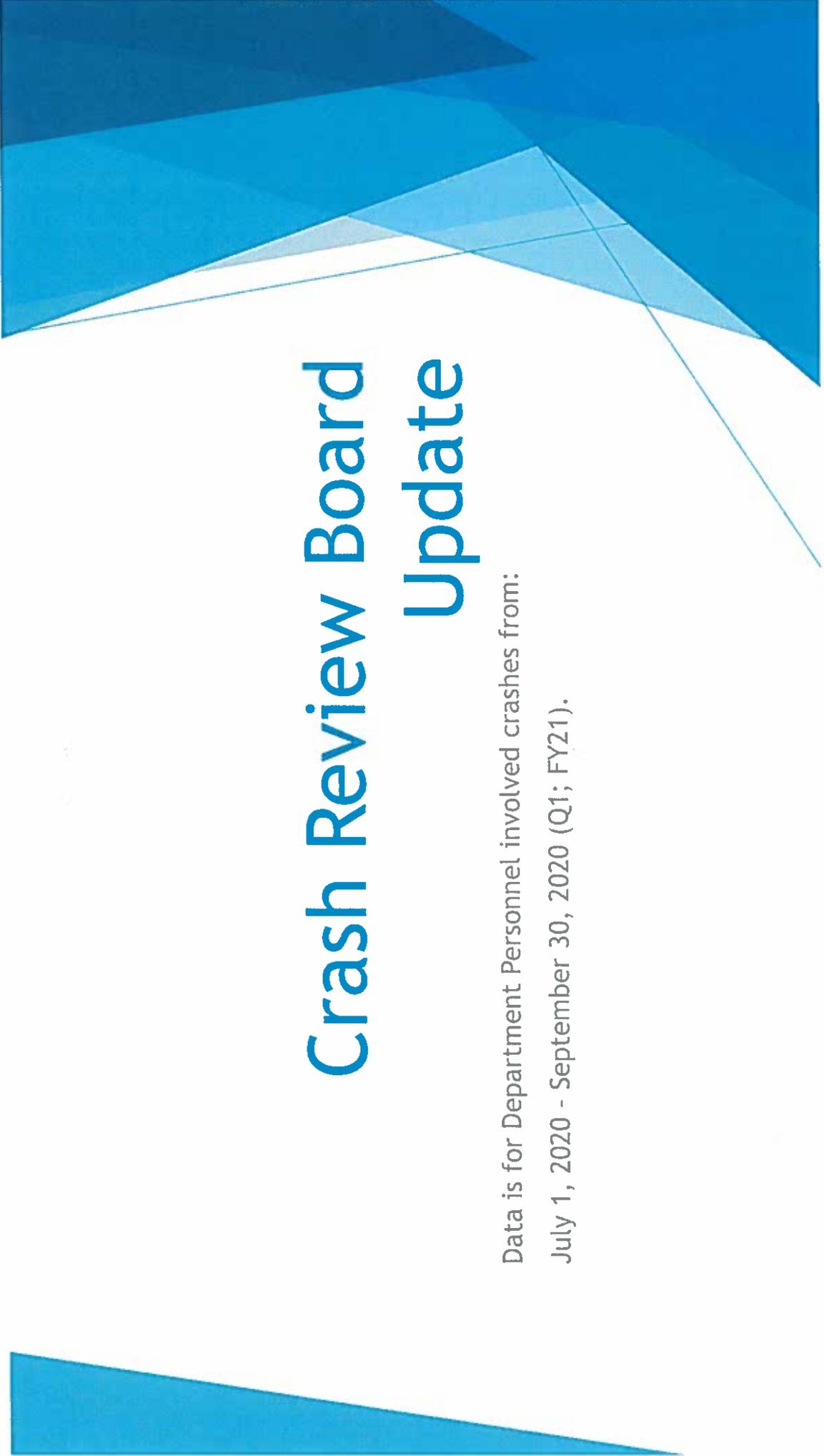
TO: City Councilors (ABQ City)
From: G. A

BACK UP
MESSAGE

RE: CPOA PROCEDURES
VS COMPLAINANTS SEEKING
REDRESS OF GRIEVANCES

COUPLE DAYS AGO (THURSDAY) I WAS
FINALLY CONTACTED BY THE CPOA
"INVESTIGATORS" DIVISION BY
A DEBERIE (sp?) CONTRERAS
RE: MY ONE COMPLAINT VS JOHNNY
YARA "SE AREA COMMANDER" AND THE
LINE COP TAKING ORDERS FROM
HQ'S, S

CONTRERAS ESSENTIALLY TOLD ME SHE'S
DEALING ONLY WITH MCCOCKERILL (NOT YARA,
HER BOSS/COMMANDER) SO, I'M THINKING,
BECAUSE THIS IS THE ONLY FEEDBACK
I'VE GOTTEN FROM CPOA PARD IA TO DATE:
ACKNOWLEDGING COMPLAINT RECEIPT:
IS THIS WHY MY ORIGINAL COPIES?
ARE NOT RETURNED? THAT ALL
COMPLAINTS PREVIOUS (TO THE SEPT. 16TH)
ARE TO BE TRASHED? BY BEING UNMENTIONED?

A decorative graphic consisting of overlapping blue geometric shapes, including triangles and polygons, in various shades of blue, creating a modern, abstract background.

Crash Review Board Update

Data is for Department Personnel involved crashes from:
July 1, 2020 - September 30, 2020 (Q1; FY21).

Results of APD involved crashes July 1, 2020 to Sept. 30, 2020 (Q1; FY21):

24 Non-preventable crashes

35 Preventable crashes

2 Non-crashes

7 Officers had 2 Preventable crashes within a 12 month period.

The officers chain of command imposes discipline, not the Crash Review Board.

APD crashes and claims paid from July 1 -
Sept. 30, 2020 (Q1; FY21):

\$105,052.87; 3rd party pay outs (bodily injury
or property damage). 21 claims.

\$224,742.14; 1st party damage to City
property involved in APD crashes. 1st party
refers to single vehicle crashes or City
vehicle vs. City vehicle (example: police
vehicle strikes a curb). 45 claims.

POLICE OVERSIGHT BOARD

INTERNAL AFFAIRS PROFESSIONAL STANDARDS DIVISION
STATISTICAL DATA FOR THE MONTH OF **November 2020**

INTERNAL CASES FOR THE MONTH OF November 2020

Total Internal Cases Completed in the month of **November-13**

19 completed cases (sent out to the area command)

1. IA Cases opened in the month of **November 2020: 20**
 2. Area Command IA cases opened for the month of **November 2020: 60**
 3. Pending IA Cases for the month of **November 2020: 17**
 4. Internal Cases Mediated: **0**
-

DISCIPLINE IMPOSED FOR INTERNAL CLOSED CASES IN November 2020

I-335-20

**3-41-6D2 Internal Dept. Complaints-Reporting and Assignment/8 hour suspension
Written Reprimand**

1-5-4A1 Harassment /8 hour suspension

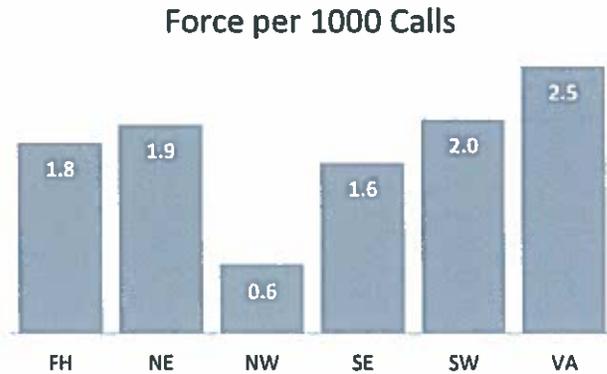
Civilian Police Oversight Agency Board

INTERNAL AFFAIRS FORCE DIVISION

STATISTICAL DATA FOR THE MONTH OF NOVEMBER 2020

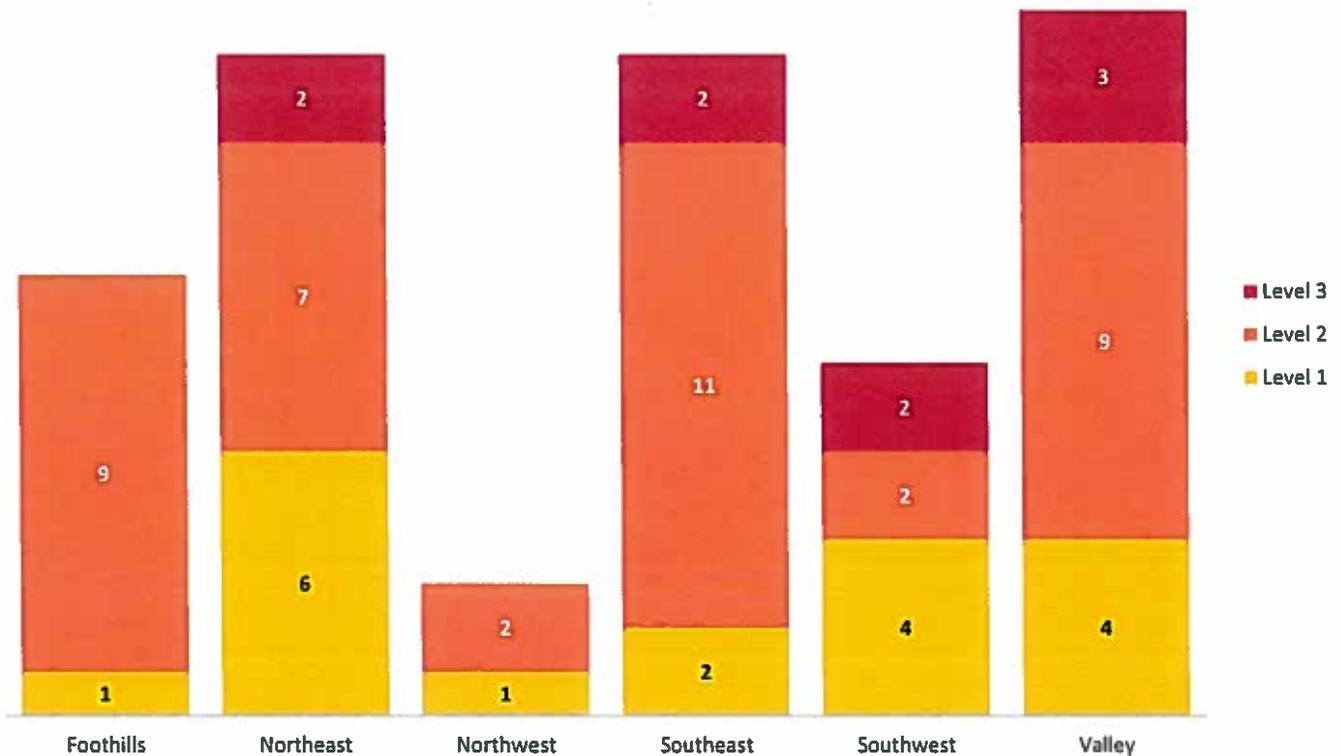
INCIDENT AREA COMMAND

	Level 1	Level 2	Level 3	Grand Total
Foothills	1	9		10
Northeast	6	7	2	15
Northwest	1	2		3
Out of Area				0
Southeast	2	11	2	15
Southwest	4	2	2	8
Valley	4	9	3	16
Grand Total	18	40	9	67



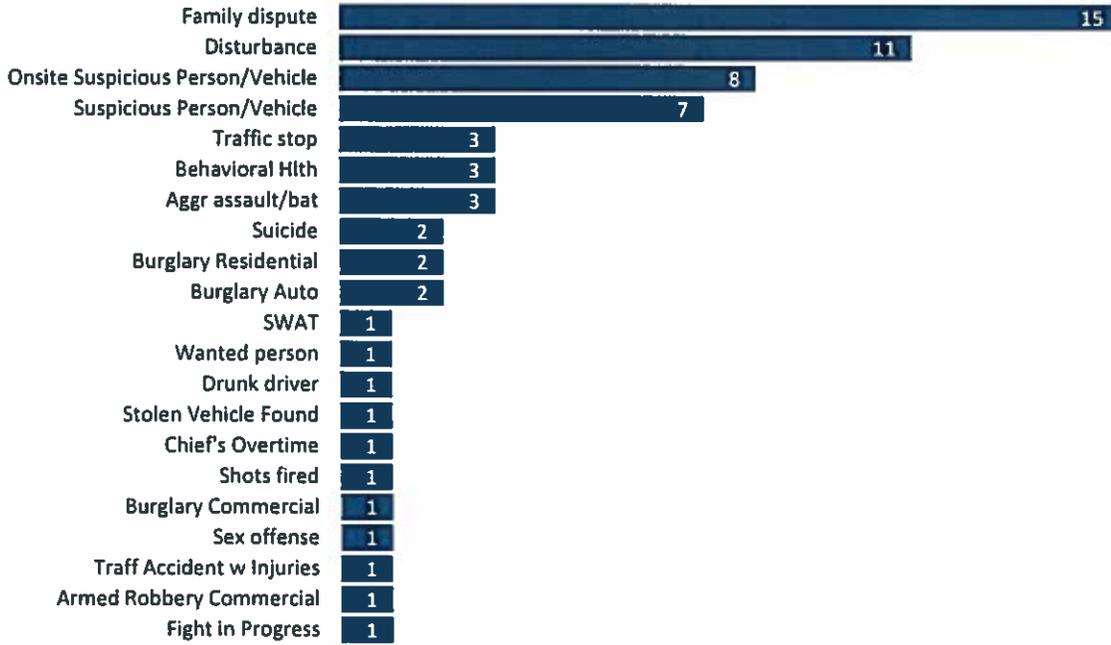
Force cases are now categorized by three levels. If a case involves multiple applications of force, it is categorized as the most serious at the case level. If one event involves both a force event and a tactical activation, the event is categorized as a force event for this report. These counts are not considered final as investigations are continuously updated.

November 2020 Force Events

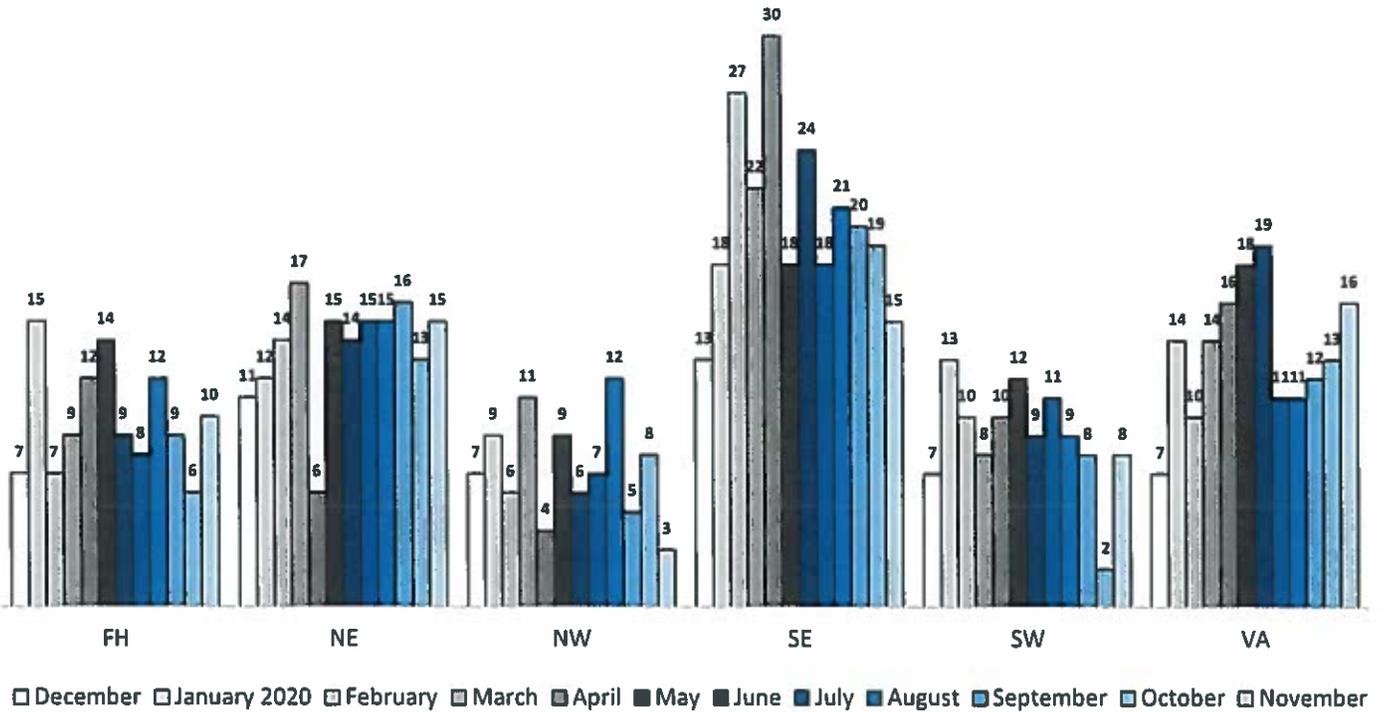


Civilian Police Oversight Agency Board
 INTERNAL AFFAIRS FORCE DIVISION
 STATISTICAL DATA FOR THE MONTH OF NOVEMBER 2020

Call Types Associated with November 2020 Force Events



Twelve Months of Force Data



Policy and Procedures Review Subcommittee Report December 2012

OPA activities:

PPRB met on November 17 and forwarded the following policies for 30 day review and recommendation. The PPRB members voted unanimously for each policy.

SOP 1-1 Personnel Code of Conduct – This policy was presented by Commander Cori Lowe. The CPOAB representative (wjk) asked if data would be made available regarding how many complaints cite portions of this SOP. Commander Lowe replied that APD is aware that this policy is frequently cited and indicated that the Compliance Division now had data analysts who were working on compiling the data and would provide it to the CPOA.

SOP 1-15 (currently 5-2) Air Support Unit – This policy is the subject of a recommendation letter submitted by Member Olivas and supported by the PnP to be considered by the Board.

SOP 1-35 (formerly 5-8) Crime Scene Specialists Unit - Discussion of this policy involved whether information in the policy should be considered for placement in the handbook used by Crime Scene Specialists. Factors which affect this decision are 1) handbooks are considered orders from the chain of command and have their own sanctions and 2) the CASA recommends that more information be included in SOPs because of their availability to the public.

SOP 2-70 Execution of Search Warrants -Language in this policy was clarified regarding NM Supreme Court rulings that define the terms such as nighttime hours and warrant expiration time.

Policy Recommendations:

SOP 1-15 Air Support Unit Policy Recommendations (Letter attachment to Agenda for Board Consideration)

SOP 3-20 Overtime Compensatory Time and Work Shift Designation Recommendations – This policy was presented to OPA on October 21. The policy is an extensive re-write of the existing overtime policy as a result of recent overtime abuses at APD and investigations by the NMAG and NM Auditor. The PnP discussed some recommendations from Member Olivas which are summarized here. There are also two from Member Kass. The PnP invites the Board to look at this policy to be prepared for further action when the policy is presented at PPRB (as yet unscheduled).

1. Officers on Chiefs overtime (COT) assignments need to be explicitly defined as excluded from being included in minimum staffing requirement calculation. In fact, the minimum staffing calculation needs to be explicitly defined. Counting these officers allows APD to avoid additional overtime expenses, but at the expense of placing additional burden and stress on the remaining officers in the field. (EO)

2. The accounting process for COT needs further examination to ensure that charges to users reflect the actual costs the department sees from these assignments including: benefits, equipment wear and tear, department overhead, and the cost of UOF investigations and potential litigation resulting from UOF incidents while an officer is on COT assignment. (EO)

3. The Force Review Board report identified above average use-of-force at Walmart associated with COT shifts. The policy should be reviewed to consider if officers are more prone to use-of-force in property crime situations than is warranted given the McClendon agreement.

4. A recent complaint considered by the Board involved an individual being questioned by APD officers because he was seen with a shopping cart from a nearby business. The overtime policy should be examined to see if COT contributes to officers identifying with the businesses they have served on COT.

Proposed for Chief's Response to POB recommendations. Mr. Abbasi proposed a form response to include with recommendation letters to the Chief. This form would explicit call out the issues which were addressed in the letter by the Board and request that the Chief respond to each of these issues. (Example included for the OBRD recommendations letter.)

Update:

SOP 3-52 Policy Development Process. The meeting scheduled for November 18 with OPA and Member Kass to discuss the changes proposed to SOP in his white paper has been postponed until city legal can further review the process. Patricia Serna, Policy Manager, Policy and Procedure Unit, Compliance and Oversight Division has emailed city legal with a request for more information regarding the re-scheduling of this meeting.

CPOA Board Recommended CASA Changes – The Board referred this task to the PnP. A list of CASA paragraphs that identify the CPOA or CPOAB has been attached. Members are invited to focus on these paragraphs to see if they have specific changes they want to make.

Case 097-20 Parking Issues. This case was referred to the PnP for the purpose of identifying SOPs which may be relevant. The relationship to SOP 1-1 Personnel Code of Conduct and SOP 3-20 were discussed by the PnP.

Last policy recommendation letter sent by the Board to the Chief:

CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Dr. William J. Kass, Chair *Eric Olivas, Vice Chair*

Tara Armijo-Prewitt

Chantal M. Galloway

Doug Mitchell

Eric Nixon

Cathryn Starr

Edward Harness, Executive Director

August 27, 2020

Michael Geier, Chief of Police
Albuquerque Police Department
400 Roma NW
Albuquerque, NM 87102

Re: Recommendation SOP 2-8 *Use of On-Body Recording Devices*

Dear Chief Geier:

Upon receipt we are expecting that we will hear your response in accordance with the Civilian Police Oversight Ordinance.

The Civilian Police Oversight Agency Board (CPOAB) is in receipt of SOP 2-8 Use of On-Body Recording Devices which was advanced for further recommendations by the department's Policy and Procedure Review Board on August 17, 2020 and sent to the CPOA Board on August 18, 2020.

SOP 3-52 Policy Development Process describes the policy development process that APD follows. This SOP provides for a CPOA representative and a designated representative from the Board. For CASA policies, of which this is one, a period of 45 days is allowed for stakeholder recommendations after the PPRB has met and advanced

days is allowed for stakeholder recommendations after the PPRB has met and advanced the policy. For this policy, the CPOA Board recognizes the need to make a timely response so the policy can be brought into compliance with a recently passed New Mexico statute requiring on body recording device implementation throughout state law enforcement agencies.

Currently the SOP section 2-8-9 Retention and Release, Paragraph B requires that OBRD video be retained for a period of 120 days. The CPOA has found that more than 75% of citizen complaints against APD officers are resolved in favor of officer exoneration when OBRD video is available. Complainants are not time-limited filing complaints and this often leads to mismatch between department timelines for video retention and investigative timelines. Lack of OBRD video undermines trust in the investigation of citizen complaints and the overall perception of accountability for officers. We therefore recommend that the non-evidentiary OBRD video be retained for a period of at least one year.

There are other minor language editing recommendations that we believe would clarify the policy. In Section 2-8-7 Discretionary Recording paragraph B. the text, "Discretionary recording is allowed:" at the beginning of the section.

Under section 2-8-8 A.7 add a sub section with the language:

Under section 2-8-8 A.7 add a sub section with the language:

Supervisors shall prohibit officers from reviewing OBRD video before writing the incident report if they were involved in a critical incident or if the supervisor suspects the officer of policy violations

The Board supports protection of privacy rights of individuals by informing them when recording is occurring.

There are mentions of OBRD in multiple paragraphs of the CASA, many of which have found APD to be non-compliant. Given the importance of maintaining OBRD records and assessing their value, we recommend that a department unit be tasked with the responsibility to collect, maintain access and analyze OBRD program data. We suggest that the analysis consist of:

- Frequency of identified policy violations and exonerations in cases involving citizen complaints;
- APD imposed discipline as a result of violations of this policy;
- Additional training resulting from deficiency of use, review or analysis;
- Need for additional resources such as hardware, software, data storage;
- Estimate of the number of hours of evidentiary video that are reviewed;
- Any other data analyses that would enhance the ability of APD to evaluate and improve the policy;

We further recommend that the data and analyses be made available to members and stakeholders of the OPA policy development process described in SOP 3-52 Policy Development Process. A summary of any relevant data should be presented at the appropriate OPA Policy Development meetings.

Sincerely,
The Civilian Police Oversight Agency Board by

Recommended Action for Policy Recommendation Letter sent out by Board to the Chief.

Add the table below, either at the end of every policy recommendation letter sent to the Chief or as a word document attached with the pdf letter. The word document should be titled 'to be filled by APD' when responding to board's policy recommendation letter. For each recommendation, APD should indicate whether it concurs, does not concur, partially concur and provide a brief explanation. If concurs, APD should provide expected implementation date and plan in department action column below. If does not concur, APD should provide explanation why they disagree with Board's recommendation, identify what action is taken and/or provide an alternate plan of action to address the problem. The highlighted section in the table should be filled out by APD when responding to Policy Recommendation Letter.

Recommendation(s) -SOP 2-8 Use of OBRD	Department Response <i>(Check appropriate box)</i>	Department Explanation	Dates	Department Action
Non-Evidentiary OBRD video be retained for a period of up to one year.	<input type="checkbox"/> Concur <input checked="" type="checkbox"/> Does Not Concur <input type="checkbox"/> Partially Concur	<i>Example:</i> APD stores non-evidentiary videos for up to 120 days which is consistent with the requirement of NM new law. Other departments keep non-evidentiary videos for the period of only 30 days, APD decision of 120 days is above average retention time.	Sent by CPOAB: 08/27/2020 Response from APD: 11/02/2020	If Concur: <i>Example:</i> Identify what changes were made to existing SOPs, or what new SO was given by Chief.
Supervisors shall prohibit officers from reviewing OBRD video before writing the incident report if they were involved in a critical incident or if the supervisor suspects the officer of policy violations.	<input type="checkbox"/> Concur <input checked="" type="checkbox"/> Does Not Concur <input type="checkbox"/> Partially Concur	<i>Example:</i> The department believes this will not be an easy practice and will take significant amount of time to implement such recommendation.	Sent by CPOAB: 08/27/2020 Response from APD: 11/02/2020	If Does not Concur: <i>Example:</i> No Action Taken by the department/or identify alternative action taken by APD.
The Board supports protection of privacy rights of individuals by informing them when recording is occurring.	<input type="checkbox"/> Concur <input type="checkbox"/> Does Not Concur <input type="checkbox"/> Partially Concur	Department's explanation if agrees, disagree or partially agrees	Sent by CPOAB: 08/27/2020 Response from APD: 11/02/2020	Department's action to address the identified problem.....

*Highlighted section (Department Response, Department Explanation, Response Date, and Department Action) will be filled out by APD when responding to Board's policy recommendation letter.

Why this will be a good practice:

- 1- This will allow us to easily track the recommendations made by the CPOAB. Will be good information to report to the Public, City Council and the Mayor. It will also inform us how long it takes APD to actually make changes from the time board recommends a policy vs when it actually gets written in department SOPs.
- 2- This will ensure that all recommendations made by the Board do not get disregarded by APD. SOP 3-52-3-A-16 states 'The Chief of Police will have 45 days from the receipt of any policy recommendation from the CPOA/CPOAB (add board in existing language) to provide an indication that the recommendation will be incorporated into policy or explanation of why the recommendation will not be followed'. In the last policy recommendation letter sent by CPOAB, APD did not provide explanation for all recommendations which were not followed except one.
- 3- Most importantly, as stated in the ordinance 'board's most important job is to spend at least 50% of their time towards bringing policy reforms at APD'. For that they at least deserve a response from APD regarding any policy recommendation boards provide. If APD do not agree to respond to each recommendation, board should push for bringing such change so APD complies. This will enhance accountability for APD which will serve the mission of the Board.

CASA paragraphs identifying the CPOA or CPOAB (POB)

165 - Availability of Complaint Forms		
170 - Complaint Receipt Process - complaint time limit of 365 days	CPOA	
172 - Acceptance of Anonymous Complaints		
174 - Allegations of Misconduct by Civil or Criminal Judicial Officers		
175 - Tracking Allegations Made by Homeless or the Mentally Ill		
179 - Civilian Complaints to be Referred to CPOA by IAB		
183 - Investigations Thorough and Reach Reliable Conclusions interview complainant if necessary to reach a reliable and complete finding	CPOA	
184 - Complaint Investigations Documented in Writing make joint stipulation permanent	CPOA	
185 - Officers Required to Cooperate with IAB/CPOA Investigations		
186 - Protocols to Separate Administrative and Criminal Investigations		
191 - 90 Days to Complete Administrative Investigations extend admin investigations to 180 days , not including time for review, or alternative 90 business days	CPOA	POB
192 - Acceptable Dispositions		
193 - Reopening Administrative Investigations		
198 - Staffing Levels at the IAB CPOA		
271 - Responsibilities of Civilian Police Oversight Agency (CPOA) Agency board shall provide meaningful, independent review of all citizen requests for reconsideration or appeals of agency citizen complaint investigations.	CPOA	POB
272 - CPOA Independence		
273 - Membership of CPOA Membership - board community xsection	CPOA	POB
274 - Initial Training for CPOA add board	CPOA	POB
275 - On-Going Training for CPOA board - ridealongs		POB
276 - Field Training for CPOA add board	CPOA	POB

277 - Resources for CPOA		
278 - Budget for CPOA		
279 - Investigative Staff for CPOA add board	CPOA	POB
280 - CPOA Complaint Intake and Processing The agency board will oversee, monitor, and review all such investigations only upon a properly submitted request for reconsideration or appeal.	CPOA	POB
281 - CPOA Investigative Case Assignment and Processing		
282 - CPOA Access to Needed Documents		POB
283 - Access to Records by CPOA		POB
284 - Confidentiality Protocols at CPOA		
285 - CPOA Recommended Discipline		
286 - Documentation of CPOA Findings at APD		
287 - Appeals of CPOA Findings		POB
288 - CPOA Recommendations Regarding APD Policy and Training		
289 - Chief's Documentation of Reasons Declining Policy Changes		POB
290 - CPOA Public Meetings		
291 - CPOA Community Outreach		
292 - CPOA Semi-Annual Reports		
293 - CPOA Ordinance		

Personnel Subcommittee Report

December Report- Meeting Date: 11/30/20

The subcommittee met on 11/30/20. The committee discussed and agreed that it is prepared to implement the board's directive to carry out the 2020 evaluation on or around 1/1/20. Minor edits suggested at the board level have been made to the 2020 evaluation materials. The subcommittee also discussed the possibility of creating a process for and/or amending the board's policies to create a system to accept complaints against the director and a system to accept commendations for the Director and staff. No action or consensus was reached, but the committee agreed to revisit the issue in the future. The committee also discussed the board's directive to the committee to explore the inclusion of CPC's in relevant parts of the Executive Director evaluation process given recent changes in ordinance. The committee agreed to send a letter to the CPC Council of Chairs inviting them to attend the January meeting of the committee to accept input. The committee met in closed session to discuss personnel matters relating to the 2019 Executive Director's evaluation. The 2019 evaluation is anticipated to be discussed again and finalized at the committee level at the December meeting and then presented to the board for discussion and possible action at the January board meeting.

Next Meeting: December 28th @3PM

Appeal Checklist

In making a decision on an appeal the Board should consider the following:

1. Has the Board determined that violations should be sustained that the CPOA did not determine or is the Board altering the CPOA's findings?
2. If the answer to question 1 is yes, the Board must determine whether the investigation needs to be returned to the CPOA for additional investigation.
3. If, in response to question 2, the Board determines that additional investigation is not required, the Board should only make findings that were not noted by the CPOA, or alter the CPOA findings, if the record of investigation sufficiently supports its findings and additional investigation is not warranted. The Board should reference the support for its findings on the record so that the public/Complainant/Chief are aware of its reasoning and the basis for its decision(s).
4. Further, when the Board grants an appeal and sustains violations that were not found by the CPOA or otherwise alters CPOA findings, disciplinary recommendations should be made, and training/policy issues addressed, to better enable the Chief to reach an appropriate decision.



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Dr. William J. Kass, Chair Eric Olivas, Vice-Chair

Tara Armijo-Prewitt Chantal M. Galloway

Eric Nixon

Edward Harness, Executive Director

Doug Mitchell

CIVILIAN POLICE OVERSIGHT AGENCY BOARD

2021 Meeting Schedule

January – December

**All Meetings are held in the
Vincent E. Griego Chambers –
One Civic Plaza NW - 5th & Marquette NW, Lower Level
Albuquerque, NM 87102**

**Meetings will begin at 5:00 p.m. unless noted
otherwise and may extend beyond 8:00 p.m.**

Thursday, January 14, 2021

Thursday, February 11, 2021

Thursday, March 11, 2021

Thursday, April 8, 2021

Thursday, May 13, 2021

Thursday, June 10, 2021

Thursday, July 8, 2021

Thursday, August 12, 2021

Thursday, September 9, 2021

Thursday, October 14, 2021

Thursday, November 4, 2021

Thursday, December 9, 2021

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Eric Nixon

Edward Harness, Executive Director

December 10, 2020

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

Re: Recommendation SOP 1-15 Air Support Unit

Dear Chief Medina:

The air support unit is one of the most costly units in the department. The equipment, training, fuel, maintenance, etc. are vastly more expensive than the costs of many other units. The unit also poses privacy issues and quality of life issues to the Albuquerque community. However the air support unit also makes pursuits and many other risky activities vastly safer for officers on the ground and the public at large. This tradeoff between costs and benefits of this unit and its activities is important for the department to frequently analyze.

The most concerning issue with the revisions to this policy is the removal of Section M. of the policy that required an evaluation of the efficiency and performance of the unit. The removal of this section leaves the unit unable to evaluate itself and proactively identify policy and/or efficiency issues. With the high costs and quality of life issues associated with operating this unit, it is imperative that the unit frequently examine the costs and benefits of its activities.

The CPOAB recommends that the department insert (from CPOAB version 11/19/20) Section M. (page 11) "Unit Evaluation of Performance Effectiveness," back into this policy to ensure that this unit is effectively evaluated and managed accordingly. We recommend inserting the entirety of the former "Section M." including #1 through #5 under the section heading. Additions to this section should also be considered to make the evaluation more robust and effective.

Further, IMR12 recently noted the department's inability to proactively collect and use the data it collects to improve its performance. The removal of Section M. is concerning in a global sense in that it is indicative of a department unwilling or unable to analyze its

performance and seek improvements to benefit the department and the Albuquerque community.

Sincerely,
The Civilian Police Oversight Agency Board by

Dr. William Kass, Chair
(505) 924-3770

cc: Mayor, Tim Keller
Council President, Pat Davis
City Attorney, Esteban A. Aguilar Jr.
James Ginger Ph.D.
United States Attorney, Elizabeth Martinez
City Clerk, Ethan Watson
APD, Commander Cori Lowe
APD, Commander Cecily Barker