

CIVILIAN POLICE OVERSIGHT BOARD

Thursday, March 8, 2018 – 5:00 PM
Vincent E. Griego Chambers, Basement Level
City/County Government Center – One Civic Plaza NW
Albuquerque, New Mexico

Members Present:

Joanne Fine, Chair
Valerie St. John, Vice Chair
Eric Cruz
Chantal M. Galloway
Dr. William Kass
James A. Larson
Chelsea Van Deventer
Leonard Waites (by phone)

Members Absent:

Johnny J. Armijo

Others Present

Edward Harness, CPOA
Maria Patterson, CPOA
Mark Baker, Esq.
Matthew Jackson, Esq.
Deputy Chief Garcia, APD
Cdr. Jennifer Garcia, APD
Julian Moya, City Council
Esteban Aguilar Jr., City Atty
James Lewis, Mayor's Office

Meeting Minutes

- I. **Welcome and call to order.** Vice Chair St. John called to order the regular meeting of the Police Oversight Board at 5:03 p.m.
- II. **Pledge of Allegiance.** Member Van Deventer led the meeting in the Pledge of Allegiance.
- III. **Mission Statement.** Vice Chair St. John read the Police Oversight Board's mission statement.
- IV. **Approval of the Agenda.**
 - a) A motion was made by Member Fine to approve the agenda as written. Member Cruz seconded the motion. The motion was carried by the following vote:
For: 8 – Cruz, Fine, Galloway, Kass, Larson, St. John, Van Deventer, Waites
- V. **Public Comments.** None.
- VI. **Review and Approval of Minutes.** For more information about minutes from prior POB meetings, please visit our website here: <http://www.cabq.gov/cpoa/police-oversight-board/pob-agenda-meeting-minutes>
 - a) **Approval of the Minutes from February 8, 2018**
 1. Copies of the draft minutes from the February 8, 2018 meeting were distributed to each member in their packets.

2. A motion was made by Member Van Deventer to approve the minutes as written. Member Larson seconded the motion. The motion was carried by the following vote:

For: 8 – Cruz, Fine, Galloway, Kass, Larson, St. John, Van Deventer, Waites

VII. Discussion

a) Election of New POB Chair.

1. **Legal advice.** Attorney Jackson presented the board's options for how to handle the chair election, including options that would allow Chair Waites to remain chair:

1. Move to undo last month's election.
2. Move to ratify last month's decision in this month (March), so that Chair Waites will be deemed elected on March 8, 2018.
3. Hold another election (meaning Leonard Waites could not be chair).

2. Attorney Jackson recommended they take one of the first two options.

Motion. Member Larson motioned to choose the second option, which is to deem last month's election to have been held at this meeting and to ratify the results of that election. Member Van Deventer seconded the motion.

3. **Discussion.** Member Cruz asked Mr. Jackson to repeat the risks of that decision and how to mitigate the risks. Mr. Jackson obliged and told the members that stating clearly that this decision follows the will of the board will be sufficient.

4. **Vote:** The motion was carried by the following vote:

For: 8 – Cruz, Fine, Galloway, Kass, Larson, St. John, Van Deventer, Waites

5. Attorney Baker promised to find a way to fix their policies so that they are in line with the ordinance and then excused himself from the meeting.

6. Member Larson stated how important it is to fix the issue so that it does not reoccur in March of 2019.

b) Dinner Breaks.

1. Motion. Member Van Deventer motioned to permanently do away with dinner breaks. Member Fine seconded the motion.

c) Vice Chair Election.

1. Member Kass asked about electing a vice chair.

2. Attorney Jackson noted that although the issue was not on the agenda, that did not pose a problem and this would be an ideal time to settle the issue of vice chair.

3. Member Fine sought clarification about why it should be on the agenda. Attorney Jackson explained that it comes down to a violation of either the ordinance or the Open Meetings Act (OMA).
4. Attorney Jackson explained their options:
 1. Hold the election for vice chair
 2. Hold the election for vice chair in April
 3. Let Valerie St. John hold the position until a successor is found
5. Attorney Jackson explained the risks of deferring the election.
6. Member Fine asked for clarification about partial terms and Attorney Jackson cited a similar situation that arose with Brad Winter as secretary of state. Member Fine noted that when the board elected Ms. St John to be vice chair, they were unaware that Ms. St. John would only be able to hold the position until March, though Member Fine added that she would be in favor of letting someone else run.
7. Attorney Jackson explained that holding the election would violate OMA, however it is unlikely that such a violation would hold up in court because it is not part of the ordinance.
8. Member Fine asked if the board should have a vote on whether or not a person can succeed himself or herself in the same position. Member Fine also asked if they should defer the election. Attorney Jackson suggested they defer the election.
9. **Motion.** Member Kass motioned to put the election for vice chair on the agenda for the April POB meeting and asked that the attorneys put together a document outlining the board's options for this matter. Member Galloway seconded the motion.
10. **Discussion.** Member Cruz stated his disagreement on the grounds that waiting until April would put the election of chair and vice chair out of sync.
11. **Motion.** Member Cruz suggested they have a special meeting in March to elect a vice chair.
12. Members Van Deventer and Fine disagreed that this would cause the elections to be out of sync, noting the vice chair would simply serve from the time of their election to March of 2019.
13. Member Larson argued that the statute is very clear: a person cannot succeed him/herself. Member Larson agreed Member Cruz that it would be a better option to hold a special meeting with only one item on it (the vice chair election) in March after the attorneys have outlined the board's options.
14. Member Kass withdrew his original motion.
15. **Vote.** Member Van Deventer seconded Member Cruz's motion. The motion passed with the following vote:

For: 8 – Cruz, Fine, Galloway, Kass, Larson, St. John, Van Deventer, Waites

d) Dinner Break Discussion.

1. Member Kass explained that the “Dinner Break” item was on the agenda so that the board could discuss the merits of getting rid of the dinner break in general.
2. Member Fine noted that several members feel it is inappropriate to eat dinner on the public’s time. Member Fine added that it is also inconvenient for members who have to work full time and suggested making the dinner optional and moving it to the beginning of the meeting.
3. Member Van Deventer stated her preference of getting rid of dinner breaks altogether. Chair Waites agreed.
4. Member Larson agreed that they should get rid of dinners, but thought it was a good idea to have the meeting start at 5:30 instead of 5:00 for members who work full time.
5. Member Van Deventer asked to hear from members who work nine-to-five jobs, noting that Member Armijo has told her he has to leave work early in order to make it to POB meetings.
6. Member Cruz agreed that moving the meeting to 5:30 would be helpful but that it would be better to keep breaks optional, rather than getting rid of them altogether, because breaks allow the board members to talk to one another.
7. Member Larson opined that allowing members to talk together on breaks constitutes an OMA violation. Member Fine explained that they do not talk about meeting business during these breaks, and other members expressed their agreement with her.
8. **Motion.** Member Van Deventer motioned to keep having meetings start at 5:00 and to get rid of dinner breaks. Member Larson seconded the motion. The motion was carried by the following vote:

For: 8 – Cruz, Fine, Galloway, Kass, Larson, St. John, Van Deventer, Waites

VIII. Consent Agenda Cases: The CPOA’s findings in each case listed on the consent agenda are reviewed and approved by the POB. 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

041-17	211-17	221-17	238-17	240-17	241-17
244-17	245-17	246-17	247-17	248-17	249-17
008-18	009-18	016-18	019-18		

1. Member Fine explained that these are cases they reviewed in the last Case Review Subcommittee meeting. Member Fine also explained what administratively closed cases are.

2. Member Fine moved to accept the administratively closed cases as presented. Member Cruz seconded the motion. The motion was carried by the following vote:

For: 6 – Cruz, Fine, Galloway, Kass, St. John, Waites

b) Cases Investigated

169-17 174-17 186-17 196-17 208-17 223-17

1. **Motion.** Member Fine explained that the Case Review Subcommittee agreed with Director Harness's recommendations and moved to accept all of the cases reviewed as presented. Member Cruz seconded the motion.

2. Member Larson wished to point out that he has been abstaining from the votes because he still did not have access to SharePoint. Member Van Deventer stated that she too has had problems with SharePoint and thus has been abstaining.

3. Member Van Deventer asked if the Case Review Subcommittee could let the other members know how many cases are pending.

4. Member Fine stated that Case Review Agendas and minutes should go to all board members.

5. Member Galloway called for an audit of the members to find out what each member has access to.

6. Member Fine stated again that SharePoint should be fixed immediately.

7. **Vote.** There was no more discussion regarding cases investigated. Member Fine's motion was carried by the following vote:

For: 6 – Cruz, Fine, Galloway, Kass, St. John, Waites

IX. Non-Concurrence Cases. None.

X. Serious Use of Force/Officer Involved Shooting Cases. Summaries of the cases can be found in the minutes from Case Review Subcommittee's February 6, 2018 meeting: <https://www.cabq.gov/cpoa/documents/draft-case-review-minutes-2-6-2018.pdf>.

a) I-172-16 I-23-17

1. See Attachment A and Attachment B.

2. It was determined that only four members have reviewed the *Garrity* materials, which is a problem because the board determined, in the February POB meeting, that a majority of the members must review the materials before the board can vote.

3. Director Harness confirmed Member Fine's explanation that they need a majority to review the materials. Member Galloway noted that the Case Review

Subcommittee members are required to view the materials, though ideally all members should view the *Garrity* materials if they can.

4. **Motion.** Member Larson motioned to table I-172-16 and I-23-17 until the following meeting. Member Fine seconded the motion. The motion was carried by the following vote:

For: 8 – Cruz, Fine, Galloway, Kass, Larson, St. John, Van Deventer, Waites

5. **Confusion.** Member Van Deventer noted that she did not know which cases to review. Director Harness noted that the cases were on the agenda for this month's meeting, the agenda for last month's meeting, and the minutes from last month's meeting.

6. Member Fine asked why they aren't on SharePoint. Director Harness told her they have been on SharePoint. Member Galloway explained that the subcommittee agendas will now go to all of the board members.

7. Member Larson urged Chair Waites to make sure board members are reviewing the cases.

b) **C2016-62**

C2017-10

C2017-12

C2017-14

C2017-22

C2017-31

1. **C2016-62.**

1. Director Harness summarized the case, which involved an officer discharging an electronic control weapon (ECW) in a schoolyard, and noted that he and the Force Review Board found the use of force to be in policy.
2. Member Fine motioned to accept the findings. Member Kass seconded the motion. The motion was carried by the following vote:
3. **For: 6 – Cruz, Fine, Galloway, Kass, St. John, Waites**

c) **C2017-10.**

1. Director Harness summarized C2016-69, which involved the apprehension of a subject with a canine. Director Harness explained the FRB believed the use of force to be in policy, and Director Harness agreed.
2. Member Fine motioned to accept the findings of C2016-69 and Member Kass seconded the motion. The motion was carried by the following vote:
For: 6 – Cruz, Fine, Galloway, Kass, St. John, Waites

d) **C2017-12.**

1. Director Harness summarized the case, noting that the FRB found the use of force to be in policy. Director Harness agreed. Member Fine motioned to accept the findings of C2017-1 and Member Cruz seconded the motion. The motion was carried by the following vote:

For: 6 – Cruz, Fine, Galloway, Kass, St. John, Waites

e) C2017-14

1. Director Harness summarized C2017-14, which involved an aggravated assault with a machete at a grocery store. A canine unit apprehended the subject and the FRB voted unanimously that the use of the canine was in policy. Member Cruz motioned to accept the findings of C2017-14. Member Galloway seconded the motion. The motion was carried by the following vote:

For: 6 – Cruz, Fine, Galloway, Kass, St. John, Waites

f) C2017-22

1. Director Harness summarized the case: after a subject bull-rushed an officer, the officer used force to decentralize the handcuffed subject to the ground. The FRB voted unanimously that the use of force was in policy. Member Galloway motioned to accept the findings of C2017-22. Member Cruz seconded the motion. The motion was carried by the following vote:

For: 6 – Cruz, Fine, Galloway, Kass, St. John, Waites

g) C2017-31

1. Director Harness summarized the case, which involved an individual punching an officer and knocking the officer to the ground. Another officer used three cycles of his ECW on the subject to take him into custody. The FRB found the use of force to be in policy. Director Harness agreed. Member Galloway motioned to accept the findings for C2017-31. Member Kass seconded the motion. The motion was carried by the following vote:

For: 6 – Cruz, Fine, Galloway, Kass, St. John, Waites

XI. POB's Review of *Garrity* Materials.

I-172-16 I-23-17 I-24-17

- a) Director Harness explained that these cases are all ready for the board's review. Documents and evidence are on evidence.com however the board will still need to review the *Garrity* materials.
- b) Member Fine motioned to ask APD to set aside review times for the *Garrity* materials listed under item XI. Member Larson seconded the motion.
- c) Member Kass said that he thought they could review them anytime with advanced notice. Cdr. Jennifer Garcia confirmed that board members can already review the materials between 7:30 a.m. and 4:30 p.m. Monday through Friday (with 24-hour notice). She added that they may be able to set aside time outside of those hours twice a month for the board members to view the materials.
- d) Member Van Deventer asked about how to review these cases in evidence.com.

XII. Reports from Subcommittees

- a) **Community Outreach Subcommittee – *Chantal Galloway*** - For more information regarding POB Community Outreach Subcommittee meetings, agendas and minutes, please refer to the website located here:
<http://www.cabq.gov/cpoa/subcommittees/outreach-committee>
- Member Galloway, in Member Armijo's stead, gave a report on behalf of the Community Outreach Subcommittee which last met on February 22, 2018, as follows:
1. **Guest.** Ms. Rogers, part of the Neighborhood Alliance on Crime, attended the meeting to see if her organization is duplicating Outreach's efforts. Ms. Rogers left feeling like there was still a need for the Neighborhood Alliance on Crime.
 2. **Mission Statement.** The subcommittee came up with a new mission statement, which is: "Outreach will promote the mission of the POB and be the bridge for communication with the community."
 3. **Events.** The subcommittee discussed attending three events per year and hosting one event of their own.
 4. **Timeline.** The subcommittee had decided to hold meetings on the fourth Tuesday of every month for the rest of 2018 (excepting December).
 5. **Next Meeting.** The next meeting will be on Tuesday, March 27, 2018 at 5:30 p.m.
- b) **Policy and Procedure Review Subcommittee – *William Kass*** - For more information about the POB Policy and Procedure Subcommittee meetings, agendas and minutes, please refer to the website located here:
<http://www.cabq.gov/cpoa/subcommittees/policy-procedure-review-committee>
- Member Kass gave a report on behalf of the Policy and Procedure Review Subcommittee, which last met on January 18, 2018, as follows:
1. **Meeting Structure.** The Policy and Procedure Subcommittee has decided to do away with the more formal, structured elements of the meetings that bog discussions down. The meetings will still follow OMA and allow for public comment, be recorded, etc. but the meetings will be less structured and the minutes will be more concise.
 2. **Policy Recommendation Process.** The subcommittee worked on developing a policy recommendation process with lots of exchange from Attorney Schmehl. (See Attachment C.) Member Kass explained the process outlined in the handout. This process will take about two months total (see Attachment D).
 3. **POB Policy Process.** The board also worked on drafting their own policy recommendation and follow-up process (see Attachment E). Upon

receiving a policy, the subcommittee will pick a point person who will determine its level of priority and whether the policy needs to be reviewed. The subcommittee would like more time with a policy (45 days) before the policy moves on in the process.

4. **CYFD Handoffs.**

- a. The subcommittee talked about how it was a problem that after the Victoria Martens case was investigated, a policy recommendation was introduced at OPA but then it stalled there. The subcommittee proposed writing a letter describing the subcommittee's recommendations for CYFD to APD handoffs.
- b. Member Larson interjected to say that he thought the board would approve the drafting and sending of such a letter at this meeting. Vice Chair St. John noted her discomfort with approving a letter that has not been written yet.
- c. Member Larson explained that the letter would note APD's failure to follow up and the board's desire to ensure this issue is a top priority.
- d. **Motion.** Member Larson motioned to write and send a letter expressing the board's wishes to make this issue a top priority and keep it from stalling further. Member Fine seconded the motion. The motion was carried by the following vote:

For: 8 – Cruz, Fine, Galloway, Kass, Larson, St. John, Van Deventer, Waites

5. **Meeting with DOJ and Amici.** Yesterday there was a DOJ meeting involving Amici and the compliance plan where they discussed SOP 3-52.

6. **Hearing with Judge Brack.**

- a. Member Kass motioned to discuss the status conference in front of Judge Brack. Kass suggested that group of board members speak at that meeting. Director Harness noted the time and location is on the schedule (see Attachment F). The board discussed quorum rules and it was decided that, as stakeholders, all of the board members would be able to attend the hearing.
- b. Director Harness further clarified that this hearing is specifically about amending the settlement agreement, so Judge Brack will be hearing whether the POB opposes the stipulations.
- c. Member Van Deventer noted her interest in attending and asked if Director Harness had access to those documents. She added that ideally the Policy subcommittee meeting could meet to familiarize themselves with the documents.

- d. Director Harness explained 3-44 briefly: there will be no IMR7; instead, there will be two progress reports and monitoring team will act as technical advisors.
- e. Director Harness told the board that the purpose of document 3-55 is to amend the settlement agreement to adopt a three-tiered system of levels of force. Director Harness proceeded to explain each level of force.
- f. Director Harness noted that at that March 7, 2018 meeting he pointed out that the POB and CPOA had been left out but the DOJ assured Director Harness that this will be remedied. Director Harness noted that he otherwise approved of the documents.
- g. Member Larson opined his reluctance to have board members speak at the hearing because it might confuse things.
- h. Attorney Jackson confirmed that it would not violate quorum rules to have more than four members attend the hearing.
- i. Member Van Deventer proposed the Policy and Procedure subcommittee meet prior to March 15, 2018 in order to discuss making a recommendation at the hearing. Member Larson stated his discomfort with making a policy recommendation on behalf of the board without the board approving it first.
- j. Member Kass noted his agreement with Member Larson and added that they should attend the hearing simply to show solidarity in the process.

Motion. Member Galloway suggested they have Director Harness represent the POB's interests at the hearing. Member Larson made a motion to allow Director Harness to represent the POB at the hearing and express his opinion on the minutes, including the board's concern at being excluded. Member Galloway seconded the motion. The motion was carried by the following vote:

For: 8 – Cruz, Fine, Galloway, Kass, Larson, St. John, Van Deventer, Waites

- c) **Case Review Subcommittee – Leonard Waites.** For more information regarding POB Case Review Subcommittee meetings, agendas and minutes, please refer to the website located here: <http://www.cabq.gov/cpoa/subcommittees/case-review-committee-crc>. Member Waites gave a report on behalf of the Case Review Subcommittee, which met on February 27, 2018, as follows:

1. **Cases.** Member Waites explained that there was nothing else to report regarding cases.
2. **Appeals.** There were no appeals.

3. **Next Meeting.** The Case Review Subcommittee will meet next on Tuesday, April 3, 2018 at 10:00 a.m.

- d) **Personnel Subcommittee – Eric Cruz.** For more information regarding POB Personnel Subcommittee meetings, agendas and minutes, please refer to the website located here: <http://www.cabq.gov/cpoa/police-oversight-board-subcommittee-meetings/personnel-committee>. Member Cruz gave a report on behalf of the Case Review Subcommittee, which last met on December 5, 2017, as follows:
1. **Appraisal.** Member Cruz reported that he completed Director Harness's appraisal.
 2. **New Survey.** See Attachment G.
 1. Member Cruz explained the new survey will be sent to three parties: the POB, CPOA staff, and the public.
 2. The survey will also include three text-only questions that will only be sent to the POB and staff. The input from the public will not be scored. The survey will be on SurveyMonkey.
 3. Member Cruz asked that the board and Director Harness please review the new survey to ensure Member Cruz has not left anything out, ideally within the week.
 3. Member Galloway asked if there was any progress with amending Director Harness's contract. Member Cruz replied that he wanted to fix the survey first.

XIII. Reports from City Staff

- a) **APD** – Commander Jennifer Garcia gave the following report for APD:
1. **Statistical Data.** Cdr. Garcia read the Statistical Date for the month of January 2018. A document titled *Police Oversight Board, APD Internal Affairs: Statistical Data for the Month of February 2018* was distributed to the POB members. See Attachment H.
 2. Member Fine congratulated Commander Jennifer Garcia on her promotion.
 3. **Communication.** Member Larson asked how often Commander Garcia meets with Director Harness. Cdr. Garcia replied that Director Harness has access to all of her cases and that he receives weekly updates.
 4. **Deputy Chief Garcia.** Deputy Chief Garcia noted that there have been two meetings with the Amici. He expressed his appreciation for the board's input about the policy approval process. Deputy Chief Garcia also said an amendment to the settlement agreement will be filed tomorrow to make sure the POB and CPOA are included.
 5. **Monitor Visit.** Next week, starting on March 12, 2018, Dr. Ginger's team will be in Albuquerque to work with APD on a technical assistance basis.

- 6. Use of Force.** Phil Coyn and Bill Toms will be in town to discuss use of force issues.
 - 7. Regular Meetings.** Deputy Chief Garcia announced that he would like to have meetings every six weeks with the monitoring team and the board is invited.
 - 8. Garrity Materials.** Member Fine asked if the board will be able to access the *Garrity* materials on nights and weekends. Deputy Chief Garcia replied that the chief is fine with it; they'll just need to contact Cdr. Garcia about it.
 - 9. CPA Use of Force Training.** Member Fine noted that the use of force training in the CPA was problematic and asked if they have been made aware of the board's concerns. Dep. Chief Garcia replied that he received a call from Elizabeth Martinez about it however he has not yet reviewed the video.
 - 10.** Member Larson noted that, in contrast, the reality-based training was really well done and the instructor was very open to questions. Deputy Chief Garcia agreed that the emphasis should be on learning and not a justification of choices.
- b) **City Council** – Julian Moya gave the following report for City Council:
- 1. 017-55 Update.** 017-55, which prohibits the board from hosting political forums, will be on the agenda for final action on the March 19th agenda.
 - 2. Ordinance Changes.** Mr. Moya has continued to set up meetings with Dr. Kass and Director Harness and there may be some changes court-approved changes from the meeting on March 15 that may need to be incorporated into the ordinance, which Chris Melendrez will handle.
 - a. Member Kass noted that he met with Councilor Benton, who agreed to sponsor the ordinance changes. Since then Member Kass has met with Councilor Sanchez and would like to meet with more councilors and perhaps even have some time to speak in front of the whole council.
 - b. Member Kass has a meeting scheduled with Councilor Winter on Monday.
- c) **Mayor's Office** – James Lewis gave the following report for the Mayor's Office:
1. James Lewis introduced himself as the new Senior Advisor for Public Safety and provided a brief background of his past positions. Mr. Lewis stated that he has been attending CPC meetings, reviewing the settlement agreement, and meeting with stakeholders. He finished by telling the board to let him know if there is anything he can do to help.
- d) **City Attorney** – Esteban Aguilar Jr. gave the following report:

1. Esteban Aguilar Jr., the newly appointed city attorney, introduced himself and noted that he is looking forward to working with the board. He had no updates for the board at that time.
- e) **Community Policing Council** – Chris Sylvan gave the following report for the CPC:
 1. **Upcoming CPC Dates.** Mr. Sylvan listed the upcoming CPC meetings, noting that there are fewer than usual due to the summit.
 2. **CPC Recommendations.** Mr. Sylvan noted the Foothills CPC recommends APD use print and other types of media to inform citizens about auto theft and how to avoid it.
 3. **CPA.** There were many new CPA members who attended the Citizen's Police Academy and they are now full, voting members.
 4. **Training.** Mr. Rickman from the monitoring team will hold a training on Saturday, April 7, at the Main Library from 10:00 a.m. to 2:00 p.m.
- f) **CPOA** – Director Harness gave the following report for the CPOA:
 1. **Business Cards.** CPOA staff members have resurrected the template for business cards and sent in a requisition for new cards.
 2. **Monitor's Visit.** The excel spreadsheet the board members received (see Attachment F) outlines the schedule for the monitor's visit.
 3. **Meeting with Mr. Giaquinto.** Director Harness has a meeting with Mr. Giaquinto on the morning of the March 15 to discuss the CPOA's new intake process. Director Harness outlined the new intake process.
 4. **Matrix Consistency.** Director Harness explained that the previous inconsistencies with how the discipline matrix was used have not been a problem with the new administration.
 5. **CPC Summit.** Director Harness added that he will be working with Mr. Sylvan and the mayor to put together an agenda for the summit on March 14, 2018 at 6:00 p.m. Ms. Bustos has been keeping track of the tickets to make sure plenty of CPC members will attend because it is a good chance for them to meet with the mayor.
 6. **Compliance Plan.** Dr. Ginger has made three additions to the City of Albuquerque's compliance plan: goals, objectives, and measures.
 7. **3-52.** The board has received a new draft of 3-52, the policy on policy development. They will discuss it on March 12 at 2:00 p.m. in the US Attorney's Office. He asked the board members to share any comments about it with Member Kass and Member Larson, who will attend the meeting.
 8. **Citizen's Police Academy.**

- a. Director Harness reported that he was generally pleased with how the CPA was put together.
 - b. However, the use of force training was problematic. The instructor used propaganda for why officers use the force they use, used unscientific stats, and was unwilling to entertain questions. The instructor even attempted to kick out an attendee from a CPC.
- 9. Senior Administrative Assistant Job.** The CPOA has received 147 applications for the job. Director Harness will interview the thirty best applicants.
- 10. Data Contract.** Director Harness explained that they have reached a stalemate for the data contract. Attorney Jackson will advise the board on their options.
- a. Member Larson stated that he considers it an intentional attempt to have the board POB and CPOA fail to do their jobs properly and suggested they seek help from the City.
 - b. Member Van Deventer wanted to ask Mr. Jackson what their litigation options are regarding the data contract.
- 11. Member Van Deventer** asked Director Harness if any City representatives besides Mr. Schmehl knew about the use of force training. Director Harness replied that it was a phone conversation with Mr. Schmehl so no one else was present. Mr. Schmehl agreed to view the video.
- a. **Motion.** Member Van Deventer motioned to ask the board's legal counsel to explore the possibility of litigation regarding the data contract issue. Member Larson seconded the motion. Member Kass suggested they delay discussion for the motion until hearing from counsel.
 - b. Mr. Jackson explained that his MOU presented the CPOA's need for receiving information in a timely manner. They responded that the MOU was too broad and the requested response time too short but offered no alternatives. He recommended that the board not agree to any MOU with lesser access.
 - c. Member Fine agreed and reminded everyone that the ordinance mandates that the CPOA and POB will access to whatever they need so the board will not accept anything less.
 - d. Member Kass asked if it was a problem related to the organization overhaul of the data warehouse. Mr. Jackson thought it was not related.
 - e. Member Larson noted that this was an instance in which the new administration had the ability to fix this problem but chose not to.
 - f. Member Kass asked if the problem was related to using a contractor rather than employee. Director Harness pointed out that this logic would

be ironic considering APD uses the same entity to do research on their behalf.

- g. Vote. Member Van Deventer's motion carried by the following vote:
For: 8 – Cruz, Fine, Galloway, Kass, Larson, St. John, Van Deventer, Waites

XIV. Closed Discussion with Counsel re: Pending Litigation or Personnel Issues:

- a) **Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7); and**
- b) **Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)**
- c) There were no issues to discuss.

XV. Other Business.

- a) **Special Meeting.** Director Harness promised to contact the board members as soon as staff can get it set up.
- b) **Welcoming Committee.** Member Fine asked that the next POB agenda include an item about creating a welcoming committee.
- c) **April Meeting.** Member Galloway asked for clarification about the next meeting date and time.
- d) **Pledge.** Member Van Deventer suggested they add to the April agenda a discussion about not saying the pledge. Other members disagreed and felt that would add to, rather than save, time.
- e) **Garrity Materials.** Member Galloway suggested the *Garrity* materials cases go on the agenda for the special meeting. Members doubted they would have time to visit the materials prior to the special meeting.
- f) **Broadcast Rules.** Mr. Jackson explained the rules for venues and broadcasting and explained that a special meeting does not need to be broadcasted.

XVI. Adjournment.

- a) A motion was made by Member Kass to adjourn the meeting. Member Van Deventer seconded the motion. The motion was carried by the following vote:
For: 8 – Cruz, Fine, Galloway, Kass, Larson, St. John, Van Deventer, Waites

The meeting adjourned at 8:03 p.m.

*Next Regularly scheduled POB meeting will be on April 12, 2018 at 5:00 p.m. in the
Vincent E. Griego Chambers.*

DRAFT

APPROVED:

Leonard Waites, Chair
Civilian Police Oversight Agency

Date

CC: Julian Moya, City Council Staff
Trina Gurule, Interim City Clerk
Isaac Benton, City Council President (via email)

Minutes drafted and submitted by:
Maria Patterson, Administrative Assistant

DRAFT

Attachments

DRAFT

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board	<i>Leonard Waites, Chair</i>	<i>Valerie St. John, Vice Chair</i>
<i>Johnny J. Armijo</i>	<i>Eric H. Cruz</i>	<i>Joanne Fine</i>
<i>Chantal M. Galloway</i>	<i>Dr. William J. Kass</i>	<i>James Larson</i>
<i>Chelsea Van Deventer</i>		
Edward Harness, Executive Director		

March 8, 2018

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

Re: I-172-16

Dear Chief Geier:

The shooting occurred on January 3, 2015. The Multi-jurisdictional Investigative team concluded its investigation February 15, 2015. The Bernalillo County District Attorney ruled on the use of Deadly Force August 31, 2016.

As to the officer's use of force, the policy in place at the time of the incident stated:

§2-52-4 Use of Deadly Force

A. "The decision to use Deadly Force still falls under the general requirements for all uses of force as outlined in 2-52-3 of this policy. Additionally, the reasonableness of the officer's decision will include:

- 1. Reasonable belief the subject presents an immediate threat to cause serious physical injury to the officer, another officer, or another member of the public; or*

Attachment A

- 2. Probable cause to believe the subject has just committed a violent felony inflicted/threatened infliction of serious physical injury to another and deadly force is necessary to prevent the escape of the subject and in order to protect the public or another officer(s).*

Finding: The CPOA finds Officer G.'s conduct **EXONERATED** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

STATEMENT OF THE CASE

On January 3, 2015 Officer G initiated a traffic stop in the area of San Mateo NE and Montgomery NE. A black SUV was traveling approximately 10 miles an hour over the speed limit. The vehicle pulled over at San Mateo and San Mateo lane.

As Officer G approached the vehicle he could hear the operator attempting to restart the vehicle. Officer G gave commands to the operator to shutoff the car, but the operator continued his activities. Officer G pulled the driver's side door open. At that point the operator turned towards Officer G and fired numerous gun shots at Officer G. Two shots struck his vest, the third struck his right leg. Officer G fell to the ground and returned fire with his department issued weapon. The operator fled the scene on foot, having not been struck by Officer G's return fire.

The operator, Christopher Cook was apprehended on January 6, 2015 by Bernalillo County Sheriff's office.

Review of the investigative file of Internal Affairs and any opinion expressed in this letter are pursuant to the duties of the CPOA as described in the POB Ordinance and are not intended for any other purpose.

Please contact me if there are questions or concerns. I look forward to your response to the concerns and recommendations contained in this letter.

Please ensure the findings are placed in the officer's retention file.

Attachment A

Sincerely,

Edward Harness, Esq.
Executive Director
Civilian Police Oversight Agency
(505) 924-3770

Attachment A

Civilian Police Oversight Board
Minutes – March 8, 2018
Page 21

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board	<i>Leonard Waites, Chair</i>	<i>Valerie St. John, Vice Chair</i>
<i>Johnny J. Armijo</i>	<i>Eric H. Cruz</i>	<i>Joanne Fine</i>
<i>Chantal M. Galloway</i>	<i>Dr. William J. Kass</i>	<i>James Larson</i>
<i>Chelsea Van Deventer</i>		
<i>Edward Harness, Executive Director</i>		

March 8, 2018

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

Re: I-23-17

Dear Chief Geier:

The shooting occurred on July 31, 2015. The Multi-jurisdictional Investigative team concluded its investigation February 28, 2016.

As to the officer's use of force, the policy in place at the time of the incident stated:

§2-52-4 Use of Deadly Force

A. "The decision to use Deadly Force still falls under the general requirements for all uses of force as outlined in 2-52-3 of this policy. Additionally, the reasonableness of the officer's decision will include:

- 1. Reasonable belief the subject presents an immediate threat to cause serious physical injury to the officer, another officer, or another member of the public;*
or

Attachment B

Civilian Police Oversight Board
Minutes – March 8, 2018
Page 22

2. Probable cause to believe the subject has just committed a violent felony inflicted/threatened infliction of serious physical injury to another and deadly force is necessary to prevent the escape of the subject and in order to protect the public or another officer(s).

Finding: The CPOA finds Officer Hei.'s conduct EXONERATED regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

Finding: The CPOA finds Officer Her.'s conduct EXONERATED regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

STATEMENT OF THE CASE

On July 31, 2015, a citizen called 911 to report a male grabbing a female by the neck, placing her in a headlock, and forcing her into a black SUV at the intersection of 8th St and Central. Officers responded to the area and located the suspect vehicle around the area of 8th and Bridge. Officers initiated a traffic stop, the vehicle refused to stop. The on-air supervisor authorized a pursuit of the vehicle having a reasonable suspicion a kidnapping had occurred.

During the pursuit the female victim exited the vehicle while it was in motion. She sustained minor injuries. The pursuit speeds did not exceed 35 mph. The on-air supervisor authorized a Pursuit Immobilization Technique. An officer certified in this type of maneuver got into position and executed the move, disabling the suspect vehicle.

The operator of the vehicle, Rafael Molina, exited the disabled vehicle armed with a handgun. He refused officers commands, and Officers Hei. and Her. discharged their service weapons striking the subject. The subject died on the scene.

Attachment B

Civilian Police Oversight Board
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Review of the investigative file of Internal Affairs and any opinion expressed in this letter are pursuant to the duties of the CPOA as described in the POB Ordinance and are not intended for any other purpose.

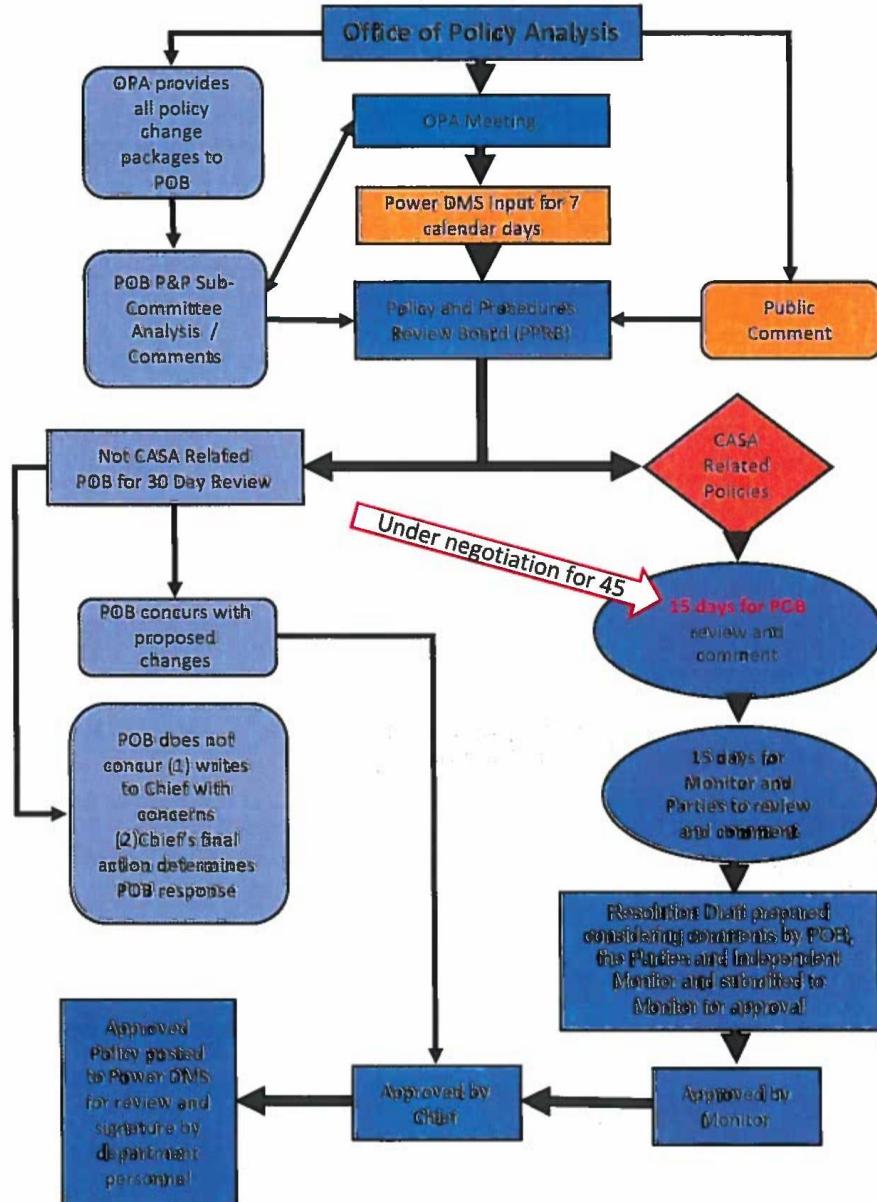
Please contact me if there are questions or concerns. I look forward to your response to the concerns and recommendations contained in this letter.

Please ensure the findings are placed in the officer's retention file.

Sincerely,

Edward Harness, Esq.
Executive Director
Civilian Police Oversight Agency
(505) 924-3770

Attachment B

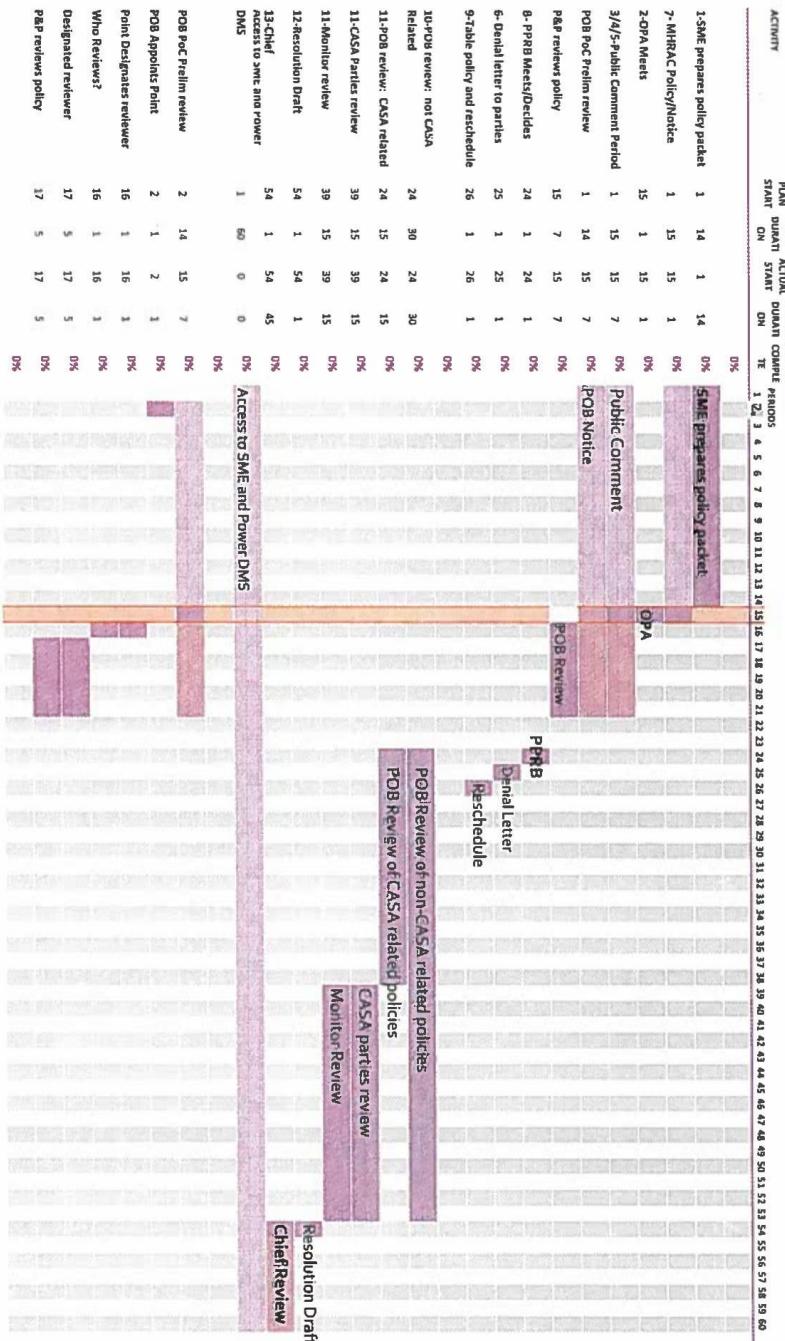


Monday, March 5, 2018
 Page 3 of 3

Attachment C

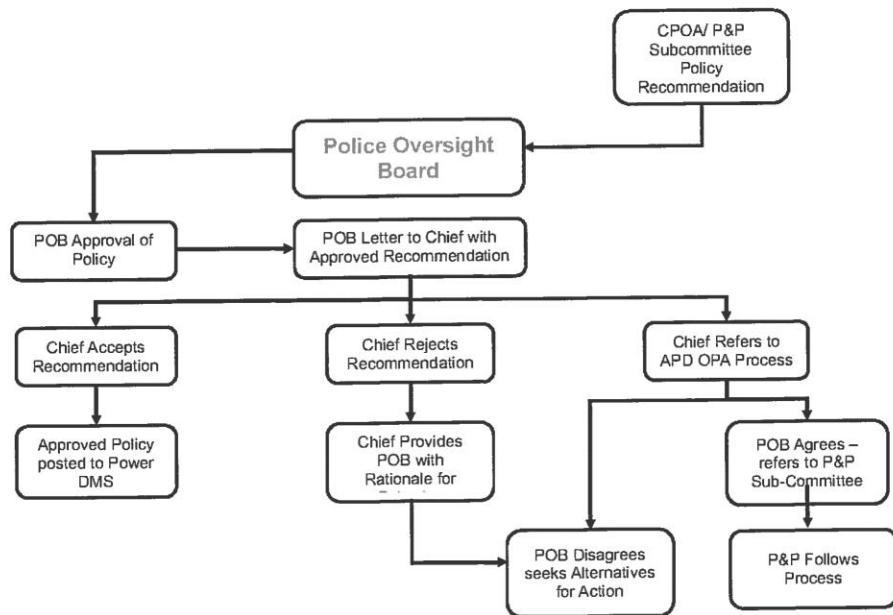
Policy Development Process 3-52-3

Plan Duration	Actual Start	Complete	Actual beyond plan	% Complete beyond plan
Period 10	2015-01-01	2015-01-01	2015-01-01	0%



Attachment D

Civilian Police Oversight Board
Minutes – March 8, 2018
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Monday, March 5, 2018 P&P Sub-committee

Attachment E

Civilian Police Oversight Board
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The POB position is all APD proposed policies are subject to a formal POB review.

- 1. Two weeks in advance of an OPA meeting a packet with the following will be provided to the CPOA:**
 - a. the existing standard operating procedure;
 - b. a draft with revisions to the existing standard operating procedure and;
 - c. materials to explain why particular changes to the standard operating procedure are based upon best policing practices or Department specific operational considerations.
- 1. CPOA will make packet information available to all POB members and maintain a database of all OPA packages.**
- 2. A Policy Coordinator will be established by the Policy and Procedure Sub-Committee (P&P) for organizing and tracking all APD policy referrals for the sub-committee whose duties include:**
 - a. keep the P&P sub-committee and POP informed of policy progress and potential issues;
 - b. identify an individual from either the P&P or the POB as a Point Person to shepherd a specific proposed policy package through the APD process;
 - c. work with Point Person to ensure timely POB policy input and any needed research for policy recommendations;
 - d. ensure documented closure to all APD policy recommendations and inform POB of policy status at each POB meeting for comment and guidance;
- 3. The point person will coordinate with CPOA and POB members on OPA to:**
 - a. prepare for and attend the OPA meeting to discuss the specific policy and raise any recommendations or concerns with the APD subject matter expert;
 - b. submit formal written policy recommendations to OPA, if any;
 - c. attend PPRB (for specific assigned policy);
 - d. brief and receive guidance at meetings POB that occur during APD review process;
 - e. POB policy recommendations rejected may be the subject of further letters of concern to the Chief and if still of concern, other options considered by the POB.
- 4. The Point Person will monitor and review corrections that are presented to the PPRB.**
 - a. If the PPRB rejects a proposed policy recommendation a letter is sent to the submitting party, with copy to the Chief of Police, explaining why the proposed language was not incorporated into the policy.

Monday, March 5, 2018
Page 1 of 3

Attachment E

- b. POB policy recommendations rejected may be the subject of further letters of concern to the Chief and if still of concern, other options considered by the POB.

5. **The Point Person will monitor non-CASA related policy passed by PPRB.**
 - a. Coordinate policy with P&P sub-committee and POB for the thirty-day time frame to agree with policy or provide recommendations
 - b. the policy will then be considered by the Chief of Police for potential revision and approval and the point person will monitor such a policy for final approval.
 - c. POB policy recommendations rejected may be the subject of further letters of concern to the Chief and if still of concern, other options considered by the POB.
6. **The Point Person will review a CASA related policy passed by PPRB**
 - a. CASA related policy is provided to the POB for 15 business days for review and comment; (this provision under negotiation for 45 days so POB can review)
 - b. Point Person and, or P&P subcommittee will present to POB for decision.
7. **The policy is then provided to the CASA Independent Monitor and Parties for 15 days for review and comment.**
8. **A resolution draft, considering comments by POB, the Parties and Independent Monitor will be prepared and presented to the Independent Monitor for approval.**

9. **Policy approved by Monitor**

10. **Policy approved by Chief of Police**

Monday, March 5, 2018
Page 2 of 3

Attachment E

MONITOR SITE VISIT MARCH 21ST-30TH						
Please Contact Shania Gallegos if you have any questions or issues regarding this schedule.						
DATE	TIME	PERSON	TOPIC	INFO	LOCATION	
March 21st	9:00-12:00	Dr. Jim Ginger David Torres Phil Corne	BILL TURNS MONITOR	Graffiti for each task, Objectives & Measures		5th Floor, Large Conference Room
March 21st	10:00-12:00	Dr. Jim Ginger	OC Eric Garcia, Lt. Connie Lowe, James Lewis, Jeremy Garcia & Steve Aguilar	Compliance Plan	Technical assistance for project leads	5th Floor, Large Conference Room
March 21st	10:00-12:00	Dr. Jim Ginger	Chef, All DC's, James Lewis, Cmdr. Steven Garcia, Lt. Larry Middleman, Lt. Connie Lowe, Sgt. Luke Langford, Jeremy Schmid & Steve Aguilar, Dr. Peter Vingrad, Project Leads, All DC's & Jessica Actives	Compliance Plan	Graffiti for each task, Objectives & Measures	5th Floor, Large Conference Room
March 21st	10:30-10:00	Dr. Jim Ginger	OC Roger Lopez	Issue ID and Planning	5th Floor, Small Conference Room	
March 21st	9:00-12:00	David Torres	Cmdr. John Sullivan	Paragraphs 149-152, 154 & 151	The Academy	
March 21st	10:00-12:00	Dr. Jim Ginger	OC Harold Medina	Issue ID and Planning	5th Floor, Small Conference Room	
March 24th	1:00-3:30	David Torres	Sgt. Ammons Topic	FTO	The Academy	
March 24th	4:00-5:00	David Torres	Request Hernandez	Training Records	The Academy	
March 24th	5:00-6:00			CPO Seminar	5th Floor, Small Conference Room	
March 25th	9:00-11:00	Dr. Jim Ginger	CPO Arturo Gonzalez	Issue ID and Planning	5th Floor, Small Conference Room	
March 15th	9:00-12:00	David Torres	Cmder. Art Sanchez	Special Operations/ Specialized Tactical Unit	5th Floor, Small Conference Room	
March 15th	1:00-3:00	David Torres	Cmder. Joe Burke	Paragraphs 205-208	4th Floor Conference Room	
March 15th	1:00-5:00	David Torres	Cmder. Jennifer Garcia	Duties of Supervisor	2nd Floor, 1A Office	
March 15th	1:30-3:00			Monitors recommendations and collaboration efforts	421 South 4th Floor Courtroom	
March 15th	3:30-5:00	David Torres	United States of America v. City of Albuquerque	Court Hearing	Judge Robert C. Brock	
March 15th	3:30-5:00	David Torres	Two Inspections/Compliance	Area Command Review	Area Command	
March 15th	TBD	David Gismondo	Ed Harness	Paragraphs 207 & 253	TBD	
March 25th	10:30-10:50	Dr. Jim Ginger	James Lewis	Monitors recommendations and collaboration efforts	5th Floor, Small Conference Room	
March 16th	10:00-12:00	Dr. Jim Ginger	Mayor Keller, Staff & COP Michael Geier	Diversification of Juries Process	5th Floor, Small Conference Room	
March 16th	9:00-10:00	David Torres	Lt. Mark Velarde & Jeremy Schmid	Paraphraph 53/ review of policy for deadlines for Use of force incidents for this IMR	4th Floor Conference Room	
March 16th	10:30-12:30	David Torres	Dr. Nils Rosenthal	Behavioral Science Support and Services	FAC	
March 16th	1:00-2:00	David Torres	CPO Michael Geier & Jeremy Schmid	Paragraph 247, 249-253	5th Floor, Small Conference Room	
March 16th	1:00-2:00	David Torres	OC Tanner Tiner	Officer discipline and feedback to OMB	FAC	
March 16th	3:00-5:00	Dr. Jim Ginger	CPO Michael Geier	Overnight of Uniform Protocols	5th Floor, Small Conference Room	
March 16th	3:00-5:00	David Torres	Cmdr. John Sullivan	Paragraph 209-211	The Academy	
March 26th & 27th	8:00-4:00	DC Eric Garcia, Cmdr. John Sullivan, Cmdr. Jennifer Garcia, Lt. Connie Lowe, Lt. Mark Velarde & Lt. Kenneth Johnston	Use of Force		5th Floor, Small Conference Room	

Attachment F

Civilian Police Oversight Board

Minutes – March 8, 2018

Evaluation Proposal

Questionnaire for future CPOA Director evaluations. Scale will be 1 to 5, 1 being low and 5 being high. Each question will have text entries to elaborate. Three text-only entries (unscored) will also be available. Three questionnaires will be submitted: one for POB, one for CPOA personnel, and one for all others the POB seeks input from. Input from CPOA and POB will be used in scoring. Input from Other stakeholders will be used to inform the POB and not for scoring.

Board specific questions. Only submitted to POB members.

1. Contributions towards the purpose of the POB [insert purpose]
2. Quality of policy recommendations made to the POB
3. Quality of investigations provided to the POB
4. Quality of community outreach strategy and execution in the CPOA
5. Quality of data analysis strategy and its execution in the CPOA
6. Level of transparency to the community and POB
7. Quality of training and training opportunities made available to the POB
8. Quality of reporting made on behalf of the POB and CPOA
9. Quality of collaboration and professional relationships
10. Quality of communication to POB
11. Quality of communication on behalf of POB to outside entities
12. Ability to maintain confidentiality
13. What are the current Director's positive attributes?
14. What can the current Director improve on?
15. Is there anything the POB should know about the current Director?

Management of Staff. Only submitted to CPOA staff.

1. Contributions towards the purpose of the CPOA

2. Quality of training and training opportunities made available to the CPOA
3. Level of transparency to the community and CPOA
4. Level of fairness
5. Level of objectivity
6. Ability to maintain confidentiality
7. Quality of communication to CPOA
8. Quality of communication on behalf of CPOA to outside entities
9. What are the current Director's positive attributes?
10. What can the current Director improve on?
11. Is there anything the POB should know about the current Director?

Other stakeholders

1. Contributions towards the purpose of the POB [insert purpose]
2. Level of fairness
3. Level of objectivity
4. Ability to maintain confidentiality
5. Quality of communication to you or your organization
6. Quality of communication on behalf of CPOA to you or your organization
7. Level of transparency to the community
8. Quality of collaboration and professional relationships
9. What are the current Director's positive attributes?
10. What can the current Director improve on?
11. Is there anything the POB should know about the current Director?

Attachment G

**POLICE OVERSIGHT BOARD
INTERNAL AFFAIRS
STATISTICAL DATA FOR
THE MONTH OF FEBRUARY 2018**

APD 911 Communications Center
Dispatched calls for Service for FEBRUARY 2018: 41,984 (decrease from JANUARY (2,794)

INTERNAL CASES FOR THE MONTH OF FEBRUARY 2018

I's

Total Internal Cases Completed the Month of FEBRUARY: 5
Comprised of:

- 5-Internal Affairs Investigations
- 0-Area Command Investigated case

Internal Cases Administratively Closed: 0

Discipline imposed for Internal Cases/ FEBRUARY 2018:

- 1: Training- vehicle accident
1: Letter of Reprimand -Leave without Pay, unpaid leave status
1: Suspension (8 hours) – Conduct
1: Termination/Resignation- Compliance with laws, rules & regulations

EIRS FOR FEBRUARY 2018: 154 alerts distributed

Pending IA Cases for the Month of FEBRUARY 2018: 24

IA/IAC Cases opened in the month of FEBRUARY 2018: 7

Attachment H