

## Civilian Police Oversight Agency Board

*Patricia J. French, Chair*     *Jesse Crawford, Vice-Chair*     *Greg Jackson*  
*Eric Nixon*     *Rashad Raynor*     *Michael Wartell*  
Deirdre Ewing, Executive Director

**Thursday, September 8, 2022 - 5:00 p.m.**

### **Members Present:**

Patricia J. French, Chair  
Jesse Crawford, Vice Chair (late)  
Greg Jackson  
Rashad Raynor  
Eric Nixon  
Michael Wartell

### **Members Absent:**

### **Others Present:**

Deirdre Ewing, CPOA  
Diane McDermott, CPOA  
Valerie Barela, CPOA  
Tina Gooch, CPOA/CPOAB Legal Counsel  
Cmdr. Sean Watie, APD  
Cmdr. Jason Sanchez, APD  
Acting Cmdr. Mark Landavazo, APD  
Deputy Cmdr. Anthony Maez, APD  
Carlos Pacheco, Sr. Managing City Atty  
Ian Stoker, Managing City Atty  
Pastor David Walker, Mayor's Office  
Chris Sylvan, City Council  
Kelly Mensah, CPC  
Sanje Javawardana, Appellant

Attendance: In response to the Public Health Emergency, the Civilian Police Oversight Agency (CPOA) Board meeting on Thursday, September 8, 2022, at 5:00 p.m. 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/cpoa-board-meeting-09-08-2022>. (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 online at any time during normal business hours. Please email [CPOA@cabq.gov](mailto:CPOA@cabq.gov) for assistance.

Public Comment: The agenda for the meeting will be posted on the CPOA website by 5:00 p.m., Monday, September 5, 2022, at [www.cabq.gov/cpoa](http://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 p.m. on Thursday,

September 8, 2022. Submit your public comments to: [POB@cabq.gov](mailto:POB@cabq.gov). These comments will be distributed to all CPOA Board members for review.

## Minutes

**I. Welcome and call to order.** Chair French called to order the regular meeting of the Civilian Police Oversight Agency Board at 5:03 p.m.

**II. Roll Call**

**a.** A roll call vote of Board members present was taken. Chair French, Members Jackson, Nixon, and Wartell were present. Vice Chair Crawford was not present during the roll call.

**III. Approval of the Agenda**

**a. Motion.** A motion by Chair French to amend and move agenda item IX. Appeal Hearing, Deliberations, and Action to item VIII. A Roll call vote was taken. Motion passed.

**For: 5 – French, Jackson, Nixon, Raynor, Wartell**

**\*\*\*Vice Chair Crawford Joined the meeting at 5:05 p.m.\*\*\***

**b. Motion.** A second motion by Chair French to approve the agenda as amended. A Roll call vote was taken. Motion passed.

**For: 6 - Crawford, French, Jackson, Nixon, Raynor, Wartell**

**IV. Approval of Consent Agenda.** The CPOA Executive Director’s findings in each case listed on the consent agenda have been provided to the CPOA Board for their information. 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**

<b>006-22</b>	<b>052-22</b>	<b>060-22</b>
<b>150-22</b>	<b>081-22</b>	<b>164-22</b>

**b. Not Sustained**

<b>045-22</b>	<b>096-22</b>
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**c. Exonerated and Unfounded**

**031-22            032-22            047-22**  
**057-22            075-22            079-22**

**d. Exonerated**

**053-22            056-22            066-22**  
**064-22            073-22            170-22**

**e. Exonerated, Unfounded and Administratively Closed**

**069-22**

**f. Unfounded**

**038-22            042-22            049-22            050-22**  
**067-22            080-22            093-22**

1. Chair French and Executive Director Dierdre Ewing had discussions related to the CPOA investigating cases that do not involve police officer misconduct as written in the revised City Ordinance. Ms. Ewing noted that the Court Approved Settlement Agreement (CASA) supersedes the Ordinance and the CASA requires the CPOA to investigate all citizen complaints. Chair French agreed with Ms. Ewing and noted that the CASA supersedes the Ordinance for Board review of case materials.
2. **Motion.** A motion by Chair French to pull CPC 060-22, 164-22, 031-22, 057-22, 064-22, 038-22, 042-22, 049-22, 050-22, 067-22, and 093-22 from the consent and to place the cases on the October 2022 Board agenda for review. A Roll call vote was taken. Motion passed.

**For: 6 - Crawford, French, Jackson, Nixon, Raynor, Wartell**

3. The Board and Ms. Ewing had discussions regarding the means by which officers are being interviewed by the CPOA and the redactions of officers' names from complaint forms. The Board will research the effectiveness of interviews via zoom versus in person and report back. Ms. Ewing will work with CPOA Lead Investigator Diane McDermott on redacting the officers' names from complaint forms.

**V. Cases pulled from Consent Agenda**

- a. There were no cases to review this month.

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**VI. Review and Approval of Minutes from August 11, 2022 Meeting**

- a. Draft minutes from the Civilian Police Oversight Board regular meeting on August 11, 2022, were distributed to each Board Member electronically via a web link.
- b. **Motion.** A motion by Member Nixon to approve the minutes from the August 11, 2022, regular meeting. A roll call vote was taken. Motion passed.

**For: 6 – Crawford, French, Jackson, Nixon, Raynor, Wartell**

**VII. Public Comments**

- a. Bob Hagtary
- b. Luci Hagtary

**VIII. Appeal Hearing, Deliberations, and Action:**

**249-21**

1. Complainant Sanje Javawardana was provided 15 minutes to present his case.
2. No APD officer was present.
3. Commander Sean Watie on behalf of APD was provided 10 minutes to speak.
4. Ms. Ewing on behalf of the CPOA was provided 10 minutes to speak.
5. Complainant Sanje Javawardana was provided an additional 5 minutes to speak.

**a. Closed discussion for deliberations by the CPOA Board in connection with an administrative adjudicatory proceeding pursuant to NMSA 1978, Section 10-15-1(H)(3) related to case CPC 249-21**

- i. **Motion.** A motion by Member Nixon to move into a closed session for the limited purpose of deliberations by

the CPOA Board pursuant to NMSA 1978, Section 10-15-1 (H)(3). Roll call vote was taken. Motion passed.

**For: 6 – Crawford, French, Jackson, Nixon, Raynor, Wartell**

**\*\*\*Closed session meeting on administrative adjudicatory proceeding began at 6:15 p.m. and the meeting reconvened at 7:28 p.m.\*\*\***

**ii. Motion.** A second motion by member Wartell to reconvene into open session. A roll call vote was taken. Motion passed.

**For: 6 – Crawford, French, Jackson, Nixon, Raynor, Wartell**

**iii.** Chair French stated for the record that no matters were discussed in the closed session other than deliberations related to CPC 249-21.

**iv. Motion.** A third motion by member French that the Board accepts the Complainant Sanje Javawardana's PowerPoint presentation as presented. A roll call vote was taken. Motion passed.

**For: 6 – Crawford, French, Jackson, Nixon, Raynor, Wartell**

**v. Motion.** A final motion by Vice Chair Crawford that the Board stay the appeal pending further investigation by the CPOA and to report back the findings 10 days prior to the November 2022 Board meeting. A roll call vote was taken. Motion passed.

**For: 6 – Crawford, French, Jackson, Nixon, Raynor, Wartell**

**vi.** Vice Chair Crawford provided a summary of the specific areas the Board would like the CPOA to further investigate and will provide the request in writing to Ms. Ewing.

**\*\*\*An eleven-minute break began at 7:34 p.m.**

**and the meeting reconvened at 7:45 p.m.\*\*\***

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**IX. Discussion, Updates, and Possible Action:**

**a. Consideration of PPRB Policies with No Recommendation: -**

1. Vice Chair Crawford screen-shared the policies that the Policy and Procedure Review Subcommittee recommended no recommendations.
2. **Motion.** A motion by Vice Chair Crawford to direct CPOA Data Analyst Ali Abbasi to communicate to APD that they do not have any recommendations on the policies discussed except for SOP 3-34 and that APD includes a CPOA Board member in the creation of the training subcommittee. A roll call vote was taken. Motion passed. (see attached)

**For: 6 – Crawford, French, Jackson, Nixon, Raynor, Wartell**

**b. Reformatting how data is provided to the Board – *Eric Nixon***

1. Member Nixon provided an update and reported that APD will be able to provide all the materials for review in the SUOF case in one link. Member Nixon will continue to work with APD and the cases should be populated within a month via the link for Board members to test.

**c. Consideration of proposed MOU between the City of Albuquerque, CPOA/CPOAB and APOA on OIS/SUOF Materials – *Tina Gooch, CPOA/CPOAB Legal Counsel***

**1. Update on Letter to DOJ – *Tina Gooch, CPOA/CPOAB Legal Counsel and Vice-Chair Crawford***

- i. Vice Chair Crawford screen-shared the proposed letter to the DOJ for Board approval.
- ii. **Motion.** A motion by Vice Chair Crawford to direct Ms. Gooch to submit the letter to Elizabeth Martinez with the DOJ and copy to the City Council and other parties. A roll call vote was taken. Motion passed.

**For: 6 – Crawford, French, Jackson, Nixon, Raynor, Wartell**

**d. Annual Training Status Update** – *Tina Gooch, CPOA/CPOAB Legal Counsel and Mike Wartell*

1. CPOA/CPOAB Legal Counsel Tina Gooch provided an update on the progress of the CPOAB Annual Training Proposal. Ms. Gooch is working with Ms. Ewing on getting the live training available for Board members. Member Wartell noted that Ms. Gooch, Ms. Ewing, Mr. Abbasi, and himself met with the IMT and discussed the training issues. Chair French noted her concerns related to APD not providing the required training to the Board.

**e. NACOLE Conference** – *Patricia J. French*

1. Chair French personally apologized for the delay in confirmations to attend the 2022 NACOLE Conference.
2. Chair French noted that Ms. Ewing reported that members Nixon and Wartell should be receiving their confirmation to attend the 2022 NACOLE Conference virtually by tomorrow.

**f. Possible Response Letter to EFIT Quarterly Report 3 and 4** – *Tina Gooch, CPOA/CPOAB Legal Counsel*

1. CPOA/CPOAB Legal Counsel Tina Gooch inquired into the Board's desire to submit comments or a response letter to EFIT's quarter 3 and 4 reports at the upcoming court hearing. Chair French and Ms. Ewing concur that the Board and CPOA do not have any comments to submit.

**Review and approval of Executive Director Evaluation Materials** – *Patricia J. French*

**2. Timeline for quarterly, semi-annual, and annual evaluations -**  
*Patricia J. French*

- i. Chair French reported that the Personnel subcommittee did meet to discuss the Executive Director Evaluation materials and noted minor changes to the materials and that she provided the materials to the Board for their review. Chair French also wanted to incorporate quarterly starting from the CPOA Executive Director's date of hire.

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- ii. **Motion.** A motion by member Jackson to approve the Executive Director Evaluation materials with informal quarterly reviews leading up to the formal annual review. A roll call vote was taken. Motion passed.

**For: 6 – Crawford, French, Jackson, Nixon, Raynor, Wartell**

**3. Timeline for reporting to City Council – Ian Stoker, Managing City Attorney**

- i. Chair French reported that she will work with Ian Stoker to make sure that the City Council is notified that the Executive Director’s evaluation will be submitted 1 year from the date of hire.

**g. Update requests-Chair/Board Members - Patricia J. French**

- 1. Chair French inquired into the Board contact list and requested that the updated list be forwarded to the Board.
- 2. Chair French noted she would like an update on the riot cases at the next regularly scheduled CPOA Board meeting.

**X. Review of Cases (approval of recommended discipline).** The CPOA Board has approved or modified any disciplinary recommendations. 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. Sustained**

**058-22**

**b. Sustained and Unfounded**

**071-22**

**c. Sustained, Sustained NBOC, Exonerated and Unfounded**

**087-22**

- 1. **Motion.** A motion by Chair French to accept the Civilian Police Oversight Agency’s disciplinary recommendation for Sustained CPC 058-22, Sustained and Unfounded 071-22, Sustained, Sustained NBOC, Exonerated and Unfounded 087-22. A roll call vote was taken. Motion passed.

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**XI. Non-Concurrence Cases**

**238-21            003-22            024-22            027-22**  
**035-22            055-22            086-22**

1. Non-Concurrence cases are noticed on the agenda for the IMT and general public.

**XII. Reports from Subcommittees**

**b. Policy and Procedure – Jesse Crawford**

1. Met September 1, 2022 (video conference)
2. Member Crawford provided a verbal report.
3. Next Meeting October 6, 2022, at 4:30 p.m.

**c. Personnel – Patricia J. French**

1. Met August 29, 2022 (video conference)
2. Member French provided a verbal report.
3. Next Meeting September 26, 2022, at 3:30 p.m.

**XIII. Reports from City Departments**

**a. APD**

**1. IA Professional Standards Division (SOP 7-1, SOP 3-41, SOP 3-46) – Acting Commander Mark Landavazo – Acting**

Commander Mark Landavazo reported on the Statistical Data for the month of August 2022. A document titled *Civilian Police Oversight Board, Internal Affairs Professional Standards Division Statistical Data for the Month of August 2022* was screen shared and distributed to CPOA Board members electronically. (see attached)

**2. IA Force Division (SOP 2-52 through SOP 2-57) –**

*Commander Scott Norris – Deputy Commander Anthony Maez* screen-shared a PowerPoint presentation and reported on the Statistical Data for the month of August 2022. A document titled *Civilian Police Oversight Board, Internal Affairs Force Division Civilian Police Oversight Agency Board Minutes – August 11, 2022*

*Statistical Data for the Month of July 2022* was also distributed to CPOA Board members electronically. (see attached)

**b. City Council – Chris Sylvan**

**1. City Council Representative** - Chris Sylvan gave a verbal report on the following:

- 2 potential Board Members will be meeting with City Council in the next two weeks.
- Chris Sylvan recommends that the Board draft a letter to City Council to address the Executive Directors Evaluation timeline.

**c. Public Safety Committee - Chris Sylvan**

**1. City Council Representative** – Chris Sylvan gave a verbal report on the following:

- The Public Safety Committee still has not met and the upcoming meeting was canceled and noted that the meetings are back to in-person.
- OC 22-12 CPOA 2021 Semi-Annual July – December report will be heard at the upcoming City Council meeting.

**d. Mayor’s Office – Pastor David Walker**

**1. APD Community Outreach Liaison** – Pastor David Walker reported that former Judge Victor Valdez was named the new Superintendent of Police Reform and is awaiting approval from City Council.

**e. City Attorney – Lauren Keefe**

**1. Senior Managing Attorney** – Carlos Pacheco gave a verbal report on the following:

- Mayor appointed retired Metro Court Judge Victor Valdez to the position of reform and envision him mimicking the function of IMT.

- APD Deputy Chief Eric Garcia will remain in the office of the Superintendent.
- EFIT court hearing is scheduled for October 5, 2022, and will be a hybrid hearing.
- Acknowledged and welcomed CPOA Executive Deirdre Ewing and is looking forward to working with her.

**f. CPC – Kelly Mensah**

1. **Community Policing Council Liaison** - Kelly Mensah gave a verbal report.

**g. APOA – Shaun Willoughby**

1. There was no report.

**h. CPOA – Deirdre Ewing, Executive Director**

1. Executive Director Ewing presented her report and announced that CPOA Data Analyst Ali Abbasi will be transferring over to the APD Analytics department. (See attached)

**XIV. Old Business**

- a. None.

**XV. New Business**

- a. Chair French welcomed the CPOA Executive Director Deirdre Ewing and the Board looks forward to working with Ms. Ewing.
- b. The Board and Ms. Gooch had discussions related to a possible special meeting for appeal hearings.

**XVI. Adjournment-**

- a. The meeting was adjourned at 9:26 p.m.

***The next regularly scheduled CPOA Board meeting will be on October 13, 2022, at 5:00 p.m.***

ATTACHMENTS

DRAFT

# PPRB Policies for Review – August 2022

## P&P Meetings

- 2022-08-10
  - 2-47 Crashes Involving Department Issued Vehicles
- 2022-08-24
  - 1-9 Compliance and Oversight
  - 1-17 Aviation Division
  - 2-69 Informants
  - 3-53 Self-Assessments
- 2022-09-07
  - 1-15 Air Support Unit
  - 1-27 Cold Case Unit
  - 1-36 Officer's Wellness Program
  - 2-7 Damage to Civilian Property
  - 2-85 Certificates for Evaluation

## PPRB Meetings

- 2022-08-31
  - 1-41 Evidence Unit
  - 1-56 Horse Mounted Unit
  - 1-65 Metropolitan Court Protection Unit
  - 3-12 Awards and Recognition
  - 3-25 Bid Process
  - 3-34 Training Committee
  - 3-44 Review of Completed Administrative Investigation Cases

## CPOAB Review for Sep. 30

### 1-41 (Formerly 3-04 and 5-6) Evidence Unit

- Broad language changes to focus more on compliance than higher-level objectives (e.g. “comply with the legal standards” replaces “according to current best practices.”)
- No recommendations.

### 1-56 (Formerly 6-12) Horse Mounted Unit

- Clarification that unintentional/uncommanded interaction between horse and individual is not a “use of force.” Such situations require an incident report and are subject to risk management investigation.
- Change from “Open Space Division” to “Special Services Division”
- No recommendations

### 1-65 (Formerly 6-6) Metropolitan Court Protection Unit

- Language revisions
- Changes related to minimum complement
- No recommendations

### 3-12 Awards and Recognitions

- Significant additional policy on awards; not so much creating new awards as providing details for awards that were previously only listed by name.

- No recommendations.

#### 3-25 (Formerly 2-10 and 4-11) Bid Process

- Language changes.
- Adjustments to intervals for bid types (probably to match CBA).
- No recommendations.

#### 3-34 Training Committee

- Biannual meetings.
- Composed of representatives from various divisions selected via their chain of command.
- No recommendations.

#### 3-44 (Formerly 3-24 and 3-45) Review of Completed Administrative Investigation Cases

- Mostly just language changes (removing full versions of acronyms included in definitions).
- Removes CPOA process from APD policy, retains language that CPOA process is consistent with CASA and CPOA P&Ps and not subject to this SOP.
- Removes executive review requirement, replacing with “discretion to review.”
- No recommendations.

**CIVILIAN POLICE OVERSIGHT BOARD**

INTERNAL AFFAIRS PROFESSIONAL STANDARDS DIVISION  
STATISTICAL DATA FOR THE MONTH OF **August 2022**

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**INTERNAL CASES FOR THE MONTH OF August 2022**

Total Internal Cases Completed in the month of **August 2022**- 26

**35 completed cases (sent out to the area command)**

1. IA Cases opened in the month of **August 2022**: 17
  2. Area Command IA cases opened for the month of **August 2022**: 29
  3. Pending IA Cases for the month of **August 2022**: 46
  4. Internal Cases Mediated: **0**
- 

**DISCIPLINE IMPOSED FOR INTERNAL CLOSED CASES IN August 2022**

**I-103-22**

2-80-2-Q1 Custody of Prisoners

Sustained

Suspension

**I-190-22**

2-8-4-F Rules

Sustained

Suspension

**I-193-22**

1-1-4-A2 Authority of Federal, State, and Local Laws and Regulations

Unfounded

None

**I-198-22**

1-1-4-A Authority of Federal, State, and Local Laws and Regulations

Unfounded

None

**I-197-22**

1-1-6-C4 Obey All Department and Supervisory Orders

Exonerated

None

1-1-6-A1 Honesty, Integrity, and Accountability

Sustained

Suspension

**I-199-22**

3-20-4-A2 Overtime

Sustained

Suspension

**I-206-22**

3-20-4-A2 Overtime

Sustained

Written Reprimand

3-20-4-A7a Overtime

Sustained

Written Reprimand

**I-227-22**

2-56-4-A1 General Requirements of Officers Who Use Force

Not Sustained

None

3-14-4-C1g Use of Force

Exonerated

None

**I-240-22**

1-1-6-A1 Honesty, Integrity, and Accountability

Exonerated

None

**I-244-22**

2-8-5-B Mandatory Recording

Sustained

Verbal Reprimand

**I-234-22**

1-1-6-C1 Obey All Department and Supervisory Orders

Exonerated

None

1-1-6-C4 Obey All Department and Supervisory Orders

Exonerated

None

1-1-6-A1 Honesty, Integrity, and Accountability

Sustained

Written Reprimand

**I-248-22**

1-1-6-C1 Obey All Department and Supervisory Orders

Unfounded

None

**I-249-22**

1-1-5-D1 Reporting for Duty

Sustained

Suspension

**I-256-22**

2-55-4-E De-escalation Techniques and Guidelines

Exonerated

None

2-57-3-C1c On-Scene Responsibilities of Supervisors Reviewing Use of Force

Sustained

NDCA

**I-285-22**

2-105-4-A3 Destruction/Capture of Animals

Exonerated

None

1-1-4-A2a Authority of Federal, State, and Local Laws and Regulations

Unfounded

None

**I-269-22**

1-1-6-C2 Obey All Department and Supervisory Orders

Not Sustained

None

**I-287-22**

1-1-5-D3a Reporting for Duty

Sustained

Written Reprimand

**I-290-22**

2-8-4-F2a Timelines for Uploading OBRD Footage

Sustained

Verbal Reprimand

**I-292-22**

2-8-4-F Timelines for Uploading OBRD Footage

Sustained

Suspension

**I-293-22**

3-21-2-C1 Injury in Line of Duty (ILD)

Exonerated

None

2-5-10-A4a Take Home Vehicle Program

Sustained

Suspension

**I-320-22**

2-8-4-F2a Timelines for Uploading OBRD Footage

Exonerated

None

**I-346-22**

2-8-4-F Timelines for Uploading OBRD Footage

Sustained

Suspension

**I-316-22**

2-56-5-C1e Officer's Obligations Following Level 1 Use of Force

Exonerated

None

2-60-4-A5f Preliminary Investigations

Sustained

NDCA

2-57-3-D3b Supervisor Documentation of Level 1 Use of Force

Sustained

NDCA

**I-325-22**

1-1-6-C4 Professional Conduct While on- and Off-Duty

Sustained

Terminated

1-1-5-C2 Misconduct

Sustained

Suspension

**I-374-22**

1-1-5-B1b Violations of Laws and Regulations

Unfounded

None

1-1-4-A1a Authority of Federal, State, and Local Laws and Regulations

Not Sustained

None

**I-480-22**

2-8-5-B Mandatory Recording

Sustained

Written Reprimand

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SUTIN THAYER  BROWNE  
A PROFESSIONAL CORPORATION  
LAWYERS

IRWIN S. MOISE (1906-1984)  
LEWIS R. SUTIN (1908-1992)  
FRANKLIN JONES (1919-1994)  
RAYMOND W. SCHOWERS (1948-1995)  
GRAHAM BROWNE (1935-2003)  
NORMAN S. THAYER (1933-2018)  
STEPHEN CHARNAS (1934-2018)  
MICHAEL G. SUTIN (1935-2019)  
JAY D. HERTZ (1947-2020)  
  
ROBERT G. HEYMAN (Of Counsel)  
  
ANNE P. BROWNE

SUZANNE WOOD BRUCKNER  
FELICIA N. CANTWELL  
MARIA MONTOYA CHAVEZ  
JOHN A. DRAGOVITS  
EDUARDO A. DUFFY  
ALEXANDER G. ELBORN  
TINA MUSCARELLA GOOCH  
JUSTIN L. GREENE  
JESSE D. HALE  
MINGJIE L. HOEMMEN  
WADE L. JACKSON  
DAVID H. JOHNSON  
ROBERT J. JOHNSTON  
ISAAC A. LEON

CHRISTINA M. LOONEY  
STEVAN DOUGLAS LOONEY  
DEBORAH E. MANN  
JESSICA R. MARTIN  
MARCELLA ALVAREZ MORGAN  
LYNN E. MOSTOLLER  
CHARLES J. PIECHOTA  
JAY D. ROSENBLUM  
FRANK C. SALAZAR  
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WWW.SUTINFIRM.COM

August 16, 2022

VIA EMAIL ONLY ([Elizabeth.martinez@usdoj.gov](mailto:Elizabeth.martinez@usdoj.gov))

Elizabeth M. Martinez  
U.S. Attorney's Office District of New Mexico  
P.O. Box 607  
Albuquerque, NM 87103

Albuquerque Civilian Police Oversight  
Agency Board – CASA Paragraph 282

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Dear Ms. Martinez:

The City first proposed a memorandum of understanding (“MOU”) to the Civilian Police Oversight Agency Board (“CPOAB”) in March, 2021 as a way to allow APD to comply with both the CASA and the Collective Bargaining Agreement (CBA). Specifically, CASA Paragraph 282 requires the City to ensure the CPOAB has access to the APD materials required to do their job:

The City shall ensure that the agency, including its investigative staff and the Executive Director, have access to all APD documents, reports, and other materials that are reasonably necessary for the agency to perform thorough, independent investigations of civilian complaints and reviews of serious uses of force and officer-involved shootings. At a minimum, the City shall provide the agency, its investigative staff, and the Executive Director access to:

- a) all civilian complaints, including those submitted anonymously or by a third party;
- b) the identities of officers involved in incidents under review;
- c) the complete disciplinary history of the officers involved in incidents under review;
- d) if requested, documents, reports, and other materials for incidents related to those under review, such as incidents involving the same officer(s);
- e) all APD policies and training; and

September 22, 2022

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f) if requested, documents, reports, and other materials for incidents that may evince an overall trend in APD's use of force, internal accountability, policies, or training.

CASA ¶ 282.

Because the CBA requires redaction of certain materials, APD does not currently timely provide CPOA/B with the materials due to lack of staff to undertake OBRD redactions. The City and CPOAB were hopeful that this redaction issue would be remedied by a MOU, since, in general, any member of the public can request, and obtain, unredacted OBRD videos through Inspection of Public Records Act (IPRA) requests.

It has been more than 1½ years since the MOU issue was first raised. Despite constant, and good faith, efforts to resolve this issue, the APOA has been reticent in its position. From originally agreeing to the concept on July 14, 2021—which was imperative to the CPOAB before devoting time and resources to trying to resolve this issue—to then demanding the CPOA waive subpoena rights in exchange for resolution of this issue, demanding that CPOAB only review unredacted videos at APD's main office downtown, to the most recent unworkable position, only permitting the release of unredacted videos that had previously been produced in response to an IPRA request--which the City has confirmed is not workable from the City Clerk's perspective.

As of the date of this communication, the CPOA/B has neither received all the information it needs to review OIS and SUOF cases<sup>1</sup>, nor any definitive guarantee about timelines for providing this information. Ensuring that CPOA/B has these materials is of paramount importance and it is ultimately the City's obligation. Given the City's inability to find to way to timely and promptly provide the CPOA/B the required materials raises questions as to whether the City is in CASA compliance in monitoring period 16 for paragraph 282. In addition, the time has come to seek involvement from the Court, DOJ, and the Monitor as the CPOAB has exhausted its diplomatic processes and needs assistance in ensuring it is provided the materials and information it needs.

Very truly yours,

SUTIN, THAYER & BROWNE  
A Professional Corporation

By \_\_\_\_\_

Tina M. Gooch  
Albuquerque Office

cc via email: CPOAB Members  
City Councilors c/o Lauren Keefe [lkeefe@cabq.gov](mailto:lkeefe@cabq.gov)  
Carlos Pacheco [cpacheco@cabq.gov](mailto:cpacheco@cabq.gov)

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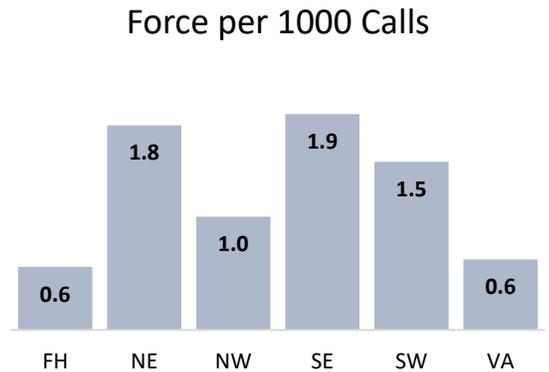
<sup>1</sup> The CPOAB is currently awaiting OBRD materials needed to review APD Case Numbers 16-0003286 and 21-0013737—both of which were heard by the APD Force Review Board in July and August 2021 and which were requested by the CPOAB on January 13, 2022.

# Civilian Police Oversight Agency Board

## INTERNAL AFFAIRS FORCE DIVISION

### STATISTICAL DATA FOR THE MONTH OF AUGUST 2022

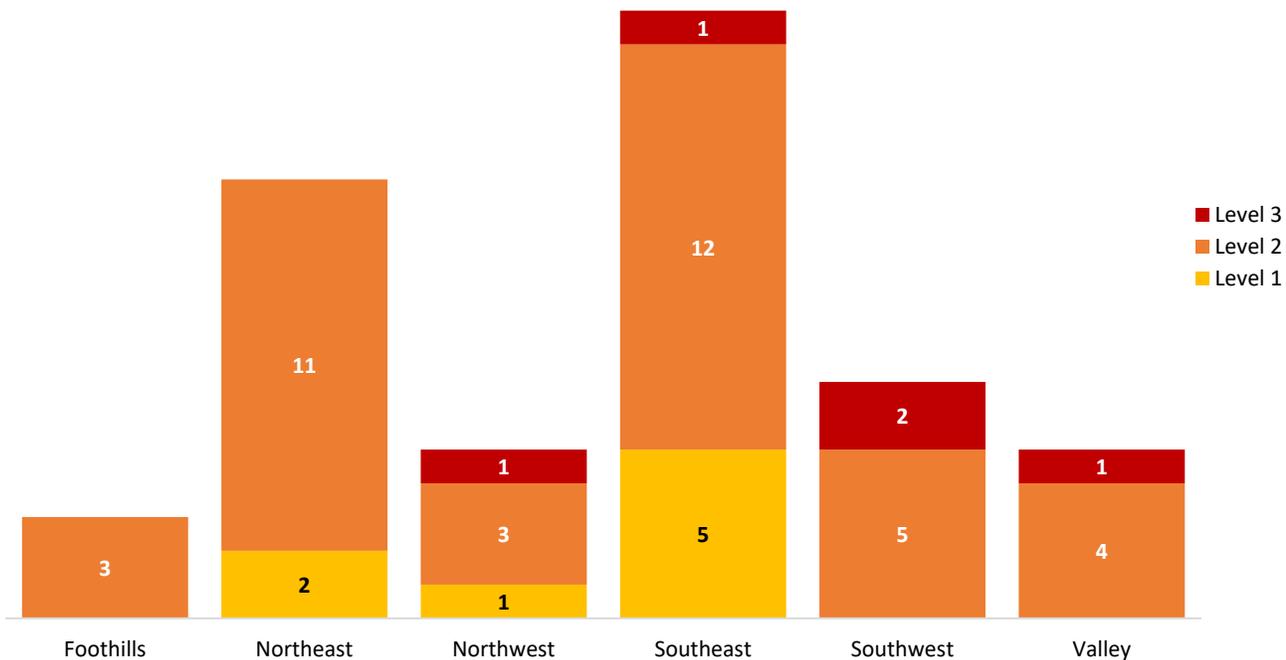
	Level 1	Level 2	Level 3	Total	CAD
Foothills		3		5354	3
Northeast	2	11		7165	13
Northwest	1	3	1	4976	5
Southeast	5	12	1	9399	18
Southwest		5	2	4693	7
Valley		4	1	8007	5
<i>PTC</i>					
<b>Total</b>	<b>8</b>	<b>38</b>	<b>5</b>	<b>3954</b>	<b>51</b>



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. These counts are not considered final as investigations are continuously updated.

- Level 1 is force that is likely to cause only transitory pain, disorientation, or discomfort during its application as a means of gaining compliance. This includes techniques which are not reasonably expected to cause injury, do not result in actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing). Pointing a firearm, beanbag shotgun, or 40 millimeter launcher at a subject, or using an ECW to “paint” a subject with the laser sight, as a show of force are reportable as Level 1 force. Level 1 force does not include interaction meant to guide, assist, or control a subject who is offering minimal resistance.
- Level 2 is force that causes injury, could reasonably be expected to cause injury, or results in a complaint of injury. Level 2 force includes use of an ECW, including where an ECW is fired at a subject but misses; use of a beanbag shotgun or 40 millimeter launcher, including where it is fired at a subject but misses; OC Spray application; empty hand techniques (i.e., strikes, kicks, takedowns, distraction techniques, or leg sweeps); and strikes with impact weapons, except strikes to the head, neck, or throat, which would be considered a Level 3 use of force.
- Level 3 is force that results in, or could reasonably result in, serious physical injury, hospitalization, or death. Level 3 force includes all lethal force; critical firearms discharges; all head, neck, and throat strikes with an object; neck holds; canine bites; three or more uses of an ECW on an individual during a single interaction regardless of mode or duration or an ECW application for longer than 15 seconds, whether continuous or consecutive; four or more strikes with a baton; any strike, blow, kick, ECW application, or similar use of force against a handcuffed subject; and uses of force resulting in a loss of consciousness.

### August 2022 Force Events



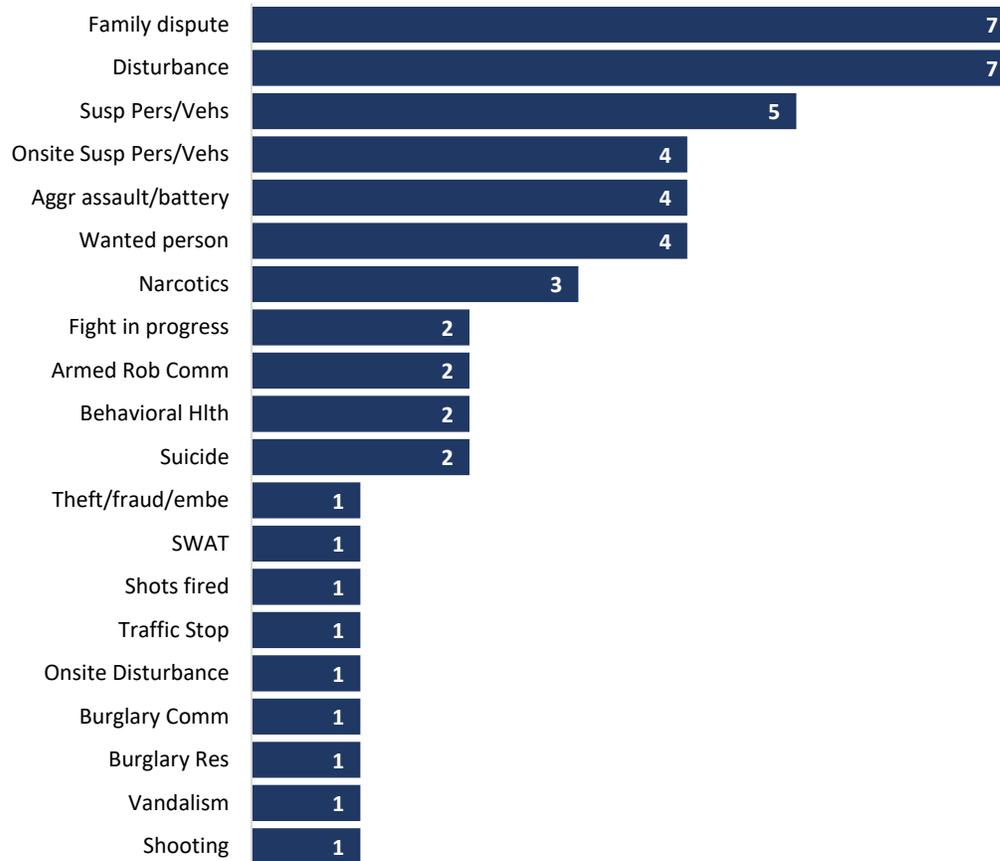
# Civilian Police Oversight Agency Board

## INTERNAL AFFAIRS FORCE DIVISION

### STATISTICAL DATA FOR THE MONTH OF AUGUST 2022

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#### Call Types Associated with August 2022 Force Events

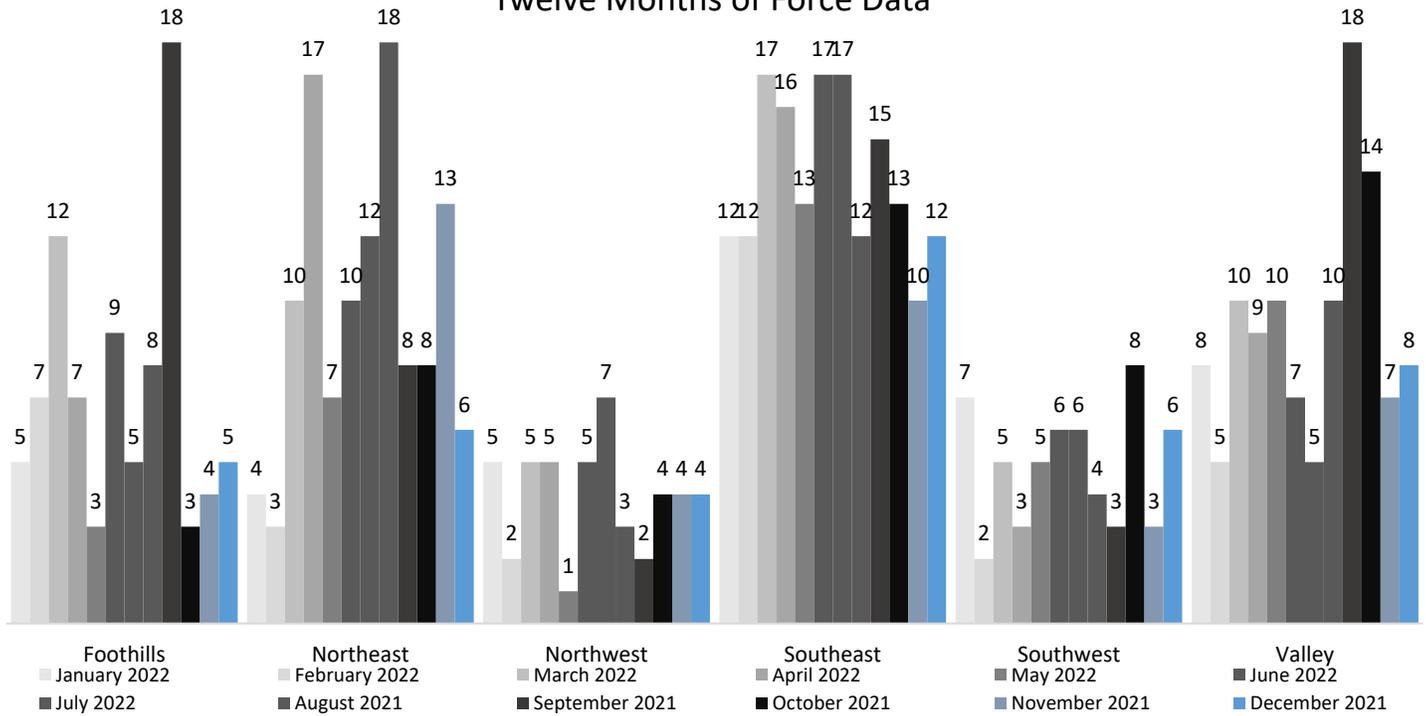


# Civilian Police Oversight Agency Board

## INTERNAL AFFAIRS FORCE DIVISION

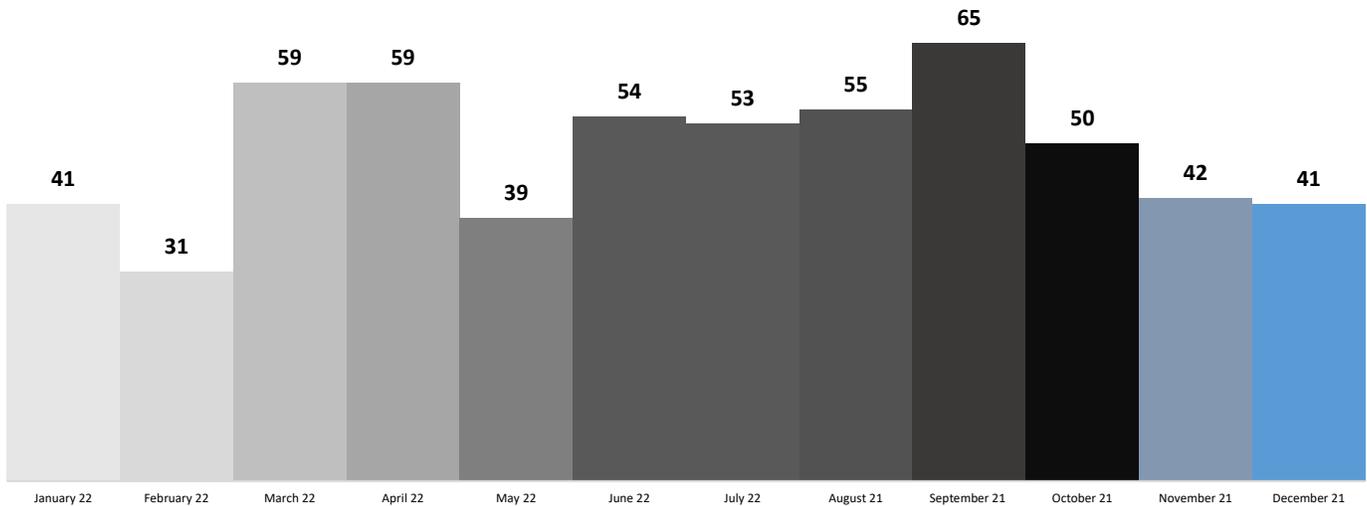
### STATISTICAL DATA FOR THE MONTH OF AUGUST 2022

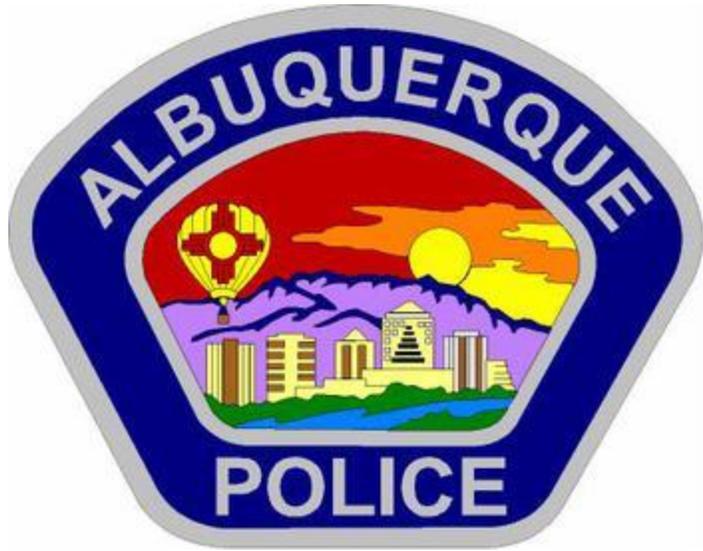
Twelve Months of Force Data



Twelve Months of Force Data

(Includes Out of Area)





# Internal Affairs Force Division

# Force Categorized Levels

- Level 1 is force that is likely to cause only transitory pain, disorientation, or discomfort during its application as a means of gaining compliance.
- Level 2 is force that causes injury, could reasonably be expected to cause injury, or results in a complaint of injury.
- Level 3 is force that results in, or could reasonably result in, serious physical injury, hospitalization, or death.

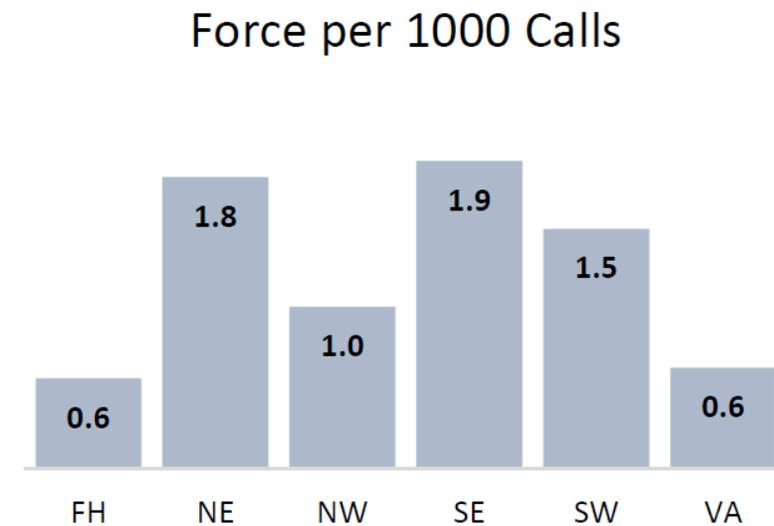
# Statistical Data for the Month of August 2022

## Civilian Police Oversight Agency Board

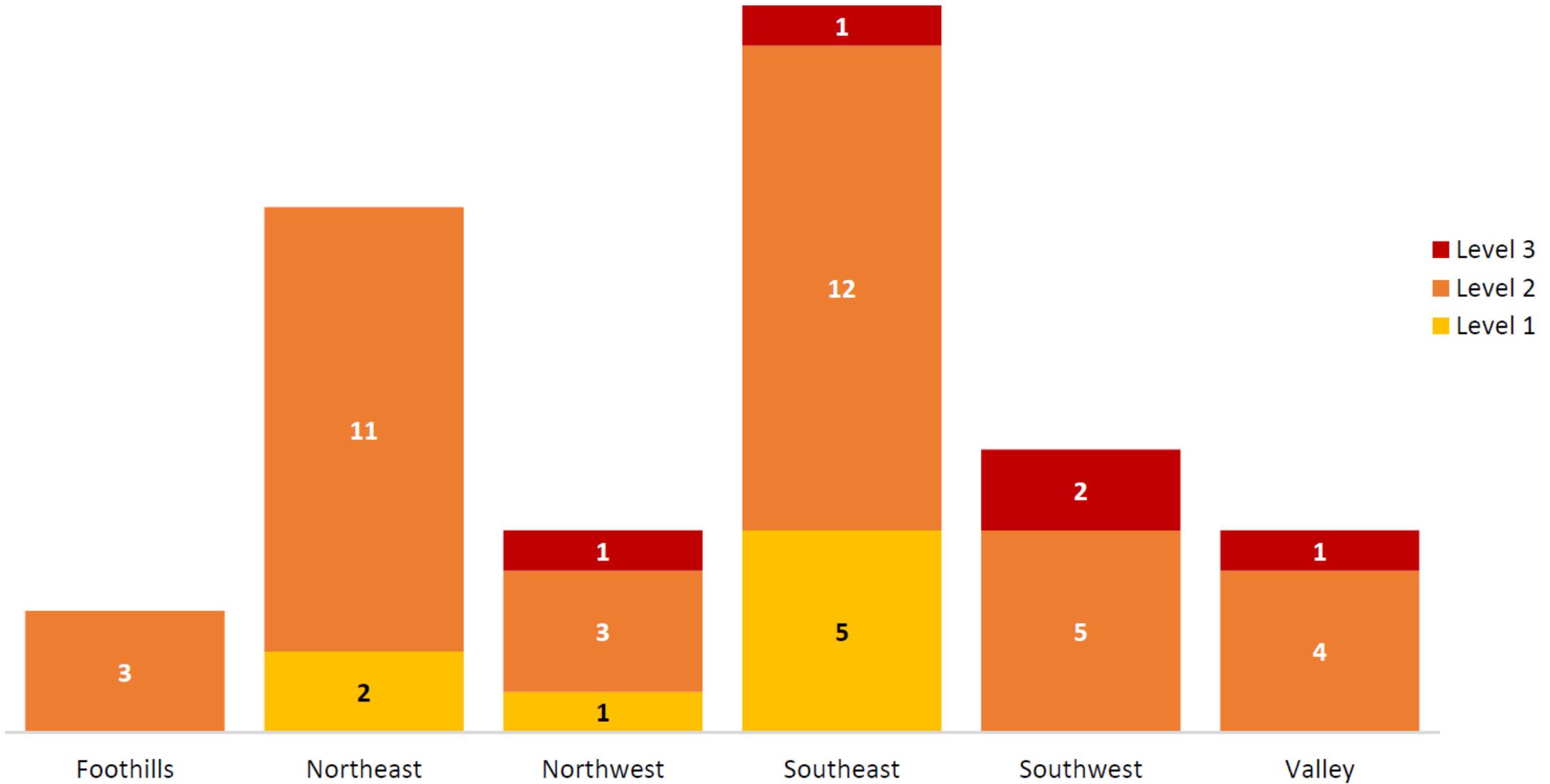
### INTERNAL AFFAIRS FORCE DIVISION

#### STATISTICAL DATA FOR THE MONTH OF AUGUST 2022

	Level 1	Level 2	Level 3	Total	CAD
Foothills		3		5354	3
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Total	8	38	5	3954	51



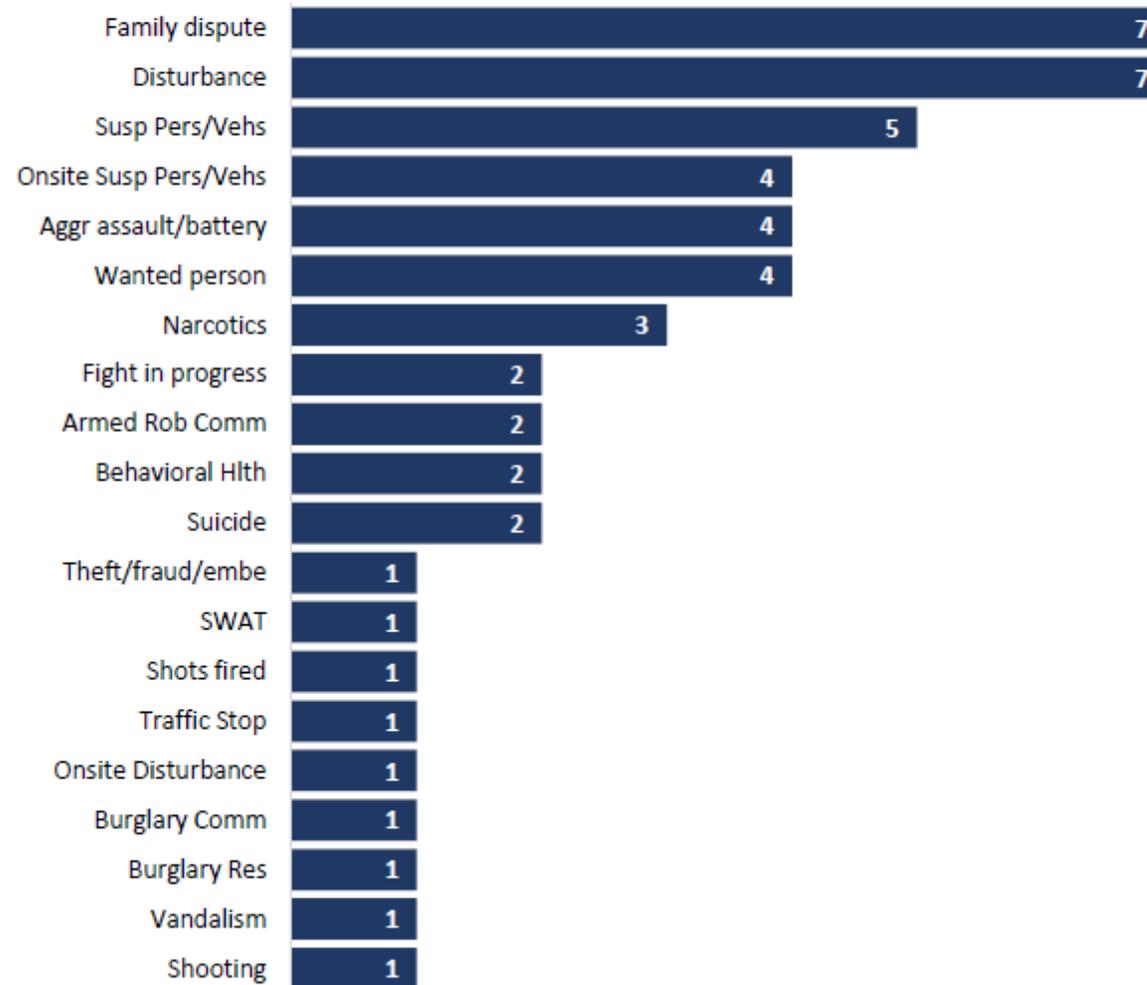
# August 2022 Force Events



Civilian Police Oversight Agency Board  
INTERNAL AFFAIRS FORCE DIVISION  
STATISTICAL DATA FOR THE MONTH OF AUGUST 2022

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Call Types Associated with August 2022 Force Events

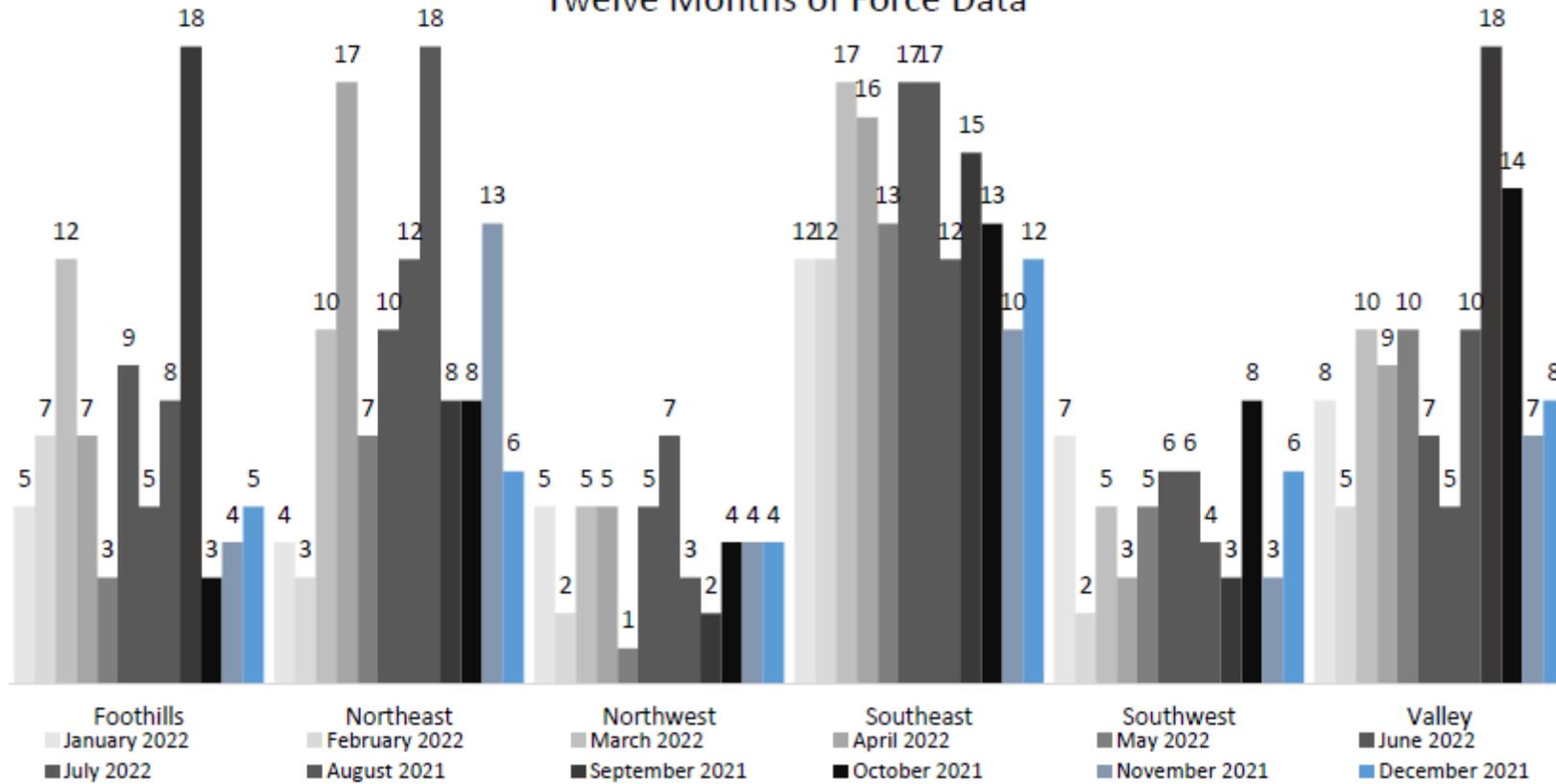


# Civilian Police Oversight Agency Board

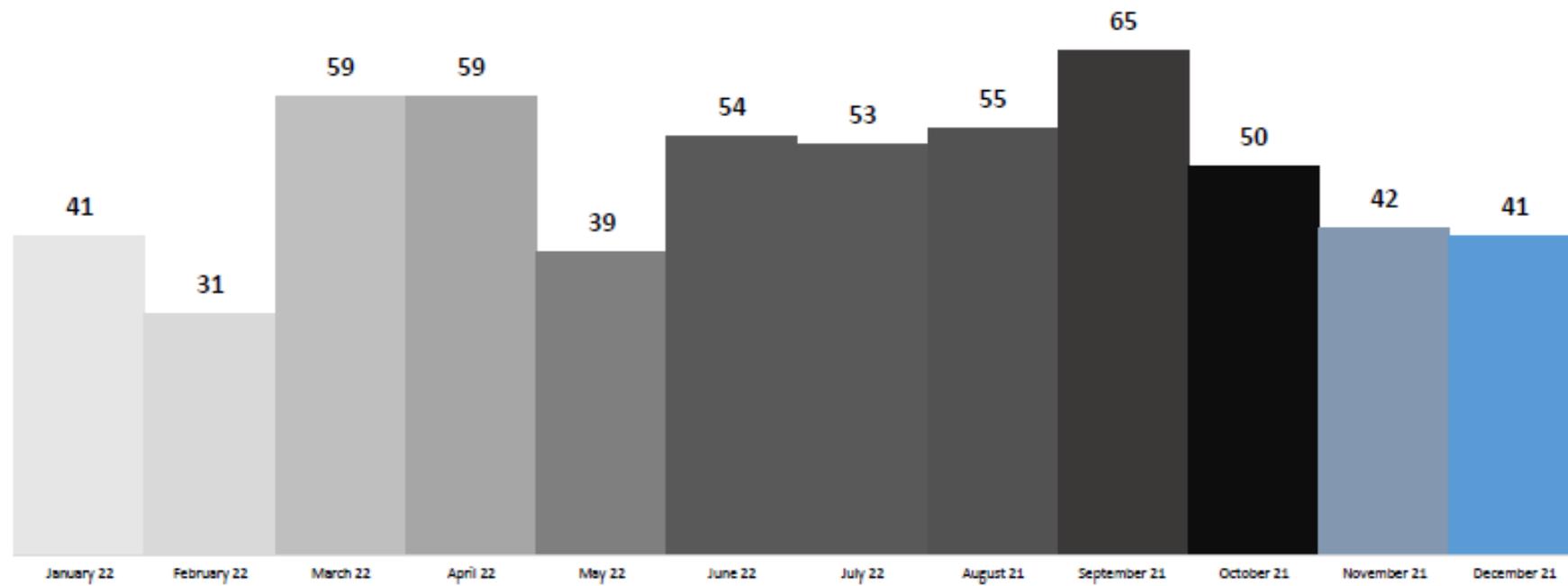
## INTERNAL AFFAIRS FORCE DIVISION

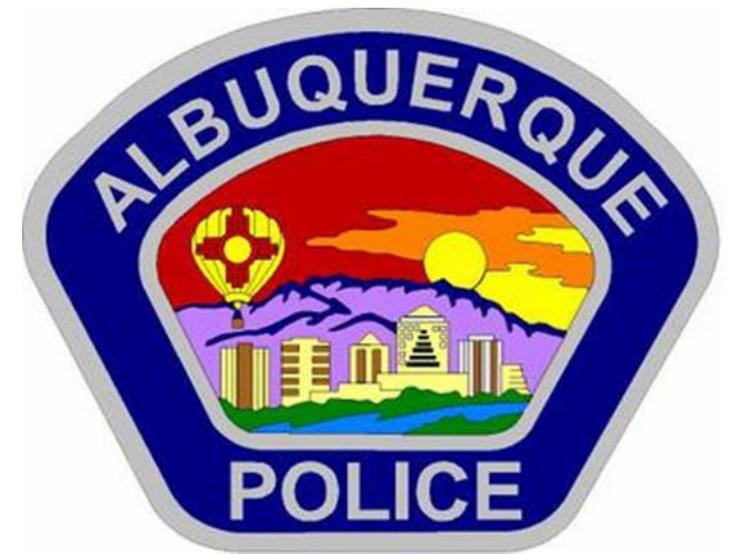
### STATISTICAL DATA FOR THE MONTH OF AUGUST 2022

Twelve Months of Force Data



## Twelve Months of Force Data (Includes Out of Area)





Deputy Commander Anthony Maez  
Internal Affairs Force Division

## Executive Director Report—September 8, 2022 Board Meeting

- I. Since the August 11, 2022 meeting, CPOA has received:
  - a. 12 driving complaints (predominantly through 311)
  - b. 20 new complaints
  - c. 5 commendations
  
- II. Staffing Updates
  - a. I started August 22. Introductions with various departments and trainings are ongoing.
  - b. Yesterday I confirmed with our HR representative, Beverlyn Samuels, that the requisitions for our Community Engagement Specialist and Executive Administrator positions to be posted have been created and that those positions will be posted soon.
  - c. Our data analyst, Ali Abassi, will be transferring to the APD Analytics unit next month. I've also requested that HR get his position posted.
  - d. Ms. Samuels has sent an email to the Classification and Compensation HR Analyst requesting a status update on the Policy Analyst position. I will be getting an update on that position when she hears back.
  
- III. I recently attended my first CPC Council of Chairs meeting, where there was some discussion of not only recruiting needs, but the importance of diversity in the recruitment pool for CPC members. After attending that meeting, I made contact with the two public defenders who work with the Young Adult Court—a treatment court designed for individuals ages 18-25 that have been arrested in Bernalillo County, are facing criminal charges, and are in particular need of treatment, social services, the development of crucial life skills, and a support system to help them rehabilitate—to ask if any recent graduates of that program might want to give back by applying to join their local CPC. The community served by that court could bring diversity of age, race, life experience and viewpoint to the CPCs.
  
- IV. We recently received notice that APOA was filing a petition to create a new union and represent the civilian investigators in IA (about 15 employees). Comments were invited with a deadline of 9/7. I declined to submit comments on behalf of CPOA.
  
- V. EFIT reports for Q3 and Q4 were recently distributed by the DOJ. It is anticipated that the Court will notice a half-day hearing on the afternoon of Wednesday, October 5, 2022, for EFIT Administrator Darryl Neier to present EFIT Quarterly Reports 3 and 4 to the Court and the community. DOJ will send us the Notice of hearing as soon as the Court enters it on the case docket.

As with prior public hearings, Judge Browning will allow representatives of the six Court-approved Amici and Stakeholders to address the Court on reform related matters. Pursuant to established practice in this case, matters to be raised with the Court must first be set forth in “Notice Letters” to the Court, Independent Monitor, United States, City, and APOA, which the United States files with the Court. Because EFIT QR-4 was filed on August 23, 2022, we have

been asked to submit Notice Letters to us no later than September 22, 2022, so the United States may file the Notice Letters with the Court before the October 5, 2022 hearing.

We will need to know which members of the board wish to attend so that we can post a notice of quorum if necessary.

- VI. The Independent Monitor team will be conducting its next site visit December 5-9, 2022.
- VII. Most of the CPOA office will be in Ft. Worth next week with Chair French and members Crawford and Raynor for the NACOLE Conference.
- VIII. Katrina will be getting people registered for the NACOLE virtual conference tomorrow. We currently know that members Nixon and Wartell wish to be registered. If any other members wish to be registered, please let us know so we can do so.