

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY BOARD

Thursday, June 13, 2019 – 5:00 PM
Vincent E. Griego Chambers, Basement Level
City/County Government Center – One Civic Plaza NW
Albuquerque, New Mexico

Members Present:

Chantal M. Galloway, Chair
Joanne Fine, Vice-Chair
Valerie St. John
Chelsea Van Deventer
Leonard Waites

Members Absent:

Dr. William Kass

Others Present

Edward Harness, CPOA
Katrina Sigala, CPOA
Tina Gooch, Atty
Cdr. Mark Velarde, APD
Cdr. Donovan Rivera, APD
Lindsay Van Meter, Asst. City Atty
Kinzer Jackson, Asst. City Atty

Meeting Minutes

- PO Box 1293
- Albuquerque
- NM 87103
- www.cabq.gov
- I. Welcome and call to order.** Chair Galloway called to order the regular meeting of the Civilian Police Oversight Agency Board at 5:01 p.m.
 - II. Pledge of Allegiance.** Vice-Chair Fine led the meeting in the Pledge of Allegiance.
 - III. Mission Statement.** Chair Galloway read the Civilian Police Oversight Agency Board's mission statement.
 - IV. Approval of the Agenda.**
 - a) Motion.** Motion was made by Member Van Deventer to approve the agenda as written. Member Waites seconded the motion. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites
 - V. Public Comments.** None

VI. Review and Approval of Minutes. For more information about minutes from prior CPOA Board meetings, please visit our website here:
<http://www.cabq.gov/cpoa/police-oversight-board/pob-agenda-meeting-minutes>

a) Approval of the Minutes from May 9, 2019

1. Copies of the draft minutes from the May 9, 2019 Civilian Police Oversight Agency Board meeting were distributed to each member in their packets.
2. **Motion.** A motion was made by Member Waites to approve the minutes as written. Chair Galloway second the motion. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

VII. Reports from City Staff

a) APD – Commander Mark Velarde with Internal Affairs-Professional Standards gave the following report for APD:

1. **Statistical Data.** Commander Velarde read the Statistical Data for the month of May 2019. A document titled *Police Oversight Board, APD Internal Affairs: Statistical Data for the Month of May 2019* was distributed to the CPOA Board members. (see attached)
2. **Quarterly Report on Vehicle Crashes –** Commander Donovan Rivera gave a report on APD officers/APD Employees involved vehicle crashes from January 1, 2019 thru March 31, 2019. A document titled *Crash Review Board Update* was distributed to the CPOA Board Members. (see attached)

b) City Council Representative – Chair Galloway read Julian Moya’s email into the record of action being done on new board members.

1. Candidates Eric Olivas and Tara Armijo-Prewitt were in attendance of today’s CPOA Board meeting.

c) Mayor’s Office-

1. Kinzer Jackson spoke on the Exit Interview with the Monitor Dr. Ginger.

d) City Attorney-

1. **City Attorney –** Lindsay Van Meter presented her report.

e) Community Policing Council

1. **CPC Representative.** There was no one from CPC present to give a report.

f) Albuquerque Police Officer’s Association

1. There was no one from APOA present to give a report.

g) Civilian Police Oversight Agency

- 1. Executive Director.** Edward Harness presented his report.
- 2. CPOA Backlog of cases.** Director Harness provided an update on the backlog of cases and some will be coming to the Board by next month.

VIII. Reports from Subcommittees

a) Community Outreach Subcommittee – Joanne Fine -

- 1. Vice-Chair Fine** advised that the brochure process is complete and is being distributed to all required sites.
- 2. Next meeting** June 25, 2019 at 1:00pm

b) Policy and Procedure Review Subcommittee – Chelsea Van Deventer–

- 1. Met** June 6, 2019 at 12:30pm.
- 2. Motion.** Motion by Chair Galloway to issue the letter to APD with the three policy recommendations brought forth by Policy and Procedure Subcommittee. Member Waites second the motion. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

- 3. Next meeting** TBT due to holiday.

b) Case Review Subcommittee – Valerie St. John –

- 1. Member St. John** delayed discussion on Case Review Subcommittee till agenda Item IX a).

c) Personnel Subcommittee – Chantal Galloway -

- 1. Met** May 24, 2019 at 9:30am
- 2. Next meeting** June 28, 2019 at 9:30am

IX. Discussion

a) Case Review Subcommittee.

- 1. Motion.** Motion by Chair Galloway to table agenda item X – Cases to the next board meeting. Second by Member St. John. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

2. Motion. Motion by Chair Galloway to delegate authority to the CPOA Board Chair to approve a final revised letter from Mrs. Gooch. Second by Member Van Deventer. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

3. Motion. Motion by Chair Galloway to change the order of the agenda and place agenda XIII. – Close Session and make it agenda item X. Second by Member Van Deventer. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

X. Meeting with Counsel re: Pending Litigation or Personnel issues:

Closed Discussion and Possible Action 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);

i. Arasim v. CPOA et al., D-202-CV-2018-05758

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

1. Motion. Motion by Member Van Deventer to take a member by member vote to move into a closed session for the limited purpose of discussing a litigation matter. Vice-Chair Fine seconded the motion. The motion was carried by the following vote:

Roll call vote by board members.

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

**--- Meeting on Personnel issues began at 6:15 p.m. and
the meeting reconvened at 6:56 p.m. ---**

2. Motion. Member Van Deventer motioned to reconvene the POB meeting into regular session and stated that the only discussion in closed session were the listed agenda items. Member Waites seconded the motion. The motion was carried by the following vote:

Roll call vote by board members.

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

c) CPOA draft Policy and Procedure.

1. Motion. Motion by Member Van Deventer to include City Attorney in page 7 item d. Second by Vice-Chair Fine. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

2. Motion. Motion by Member Van Deventer to accept this recommendation on page 9 item b) to break these two items out for clarity. Chair Galloway second the motion. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

3. Motion. Motion by Member Van Deventer on page 14 and 17 to incorporate them, striking the word substantive as discussed into our rules and procedures. Member Waites second the motion. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

4. Motion. Motion by Chair Galloway to include parallel language from the actual subpoena and reflect in the policy and procedure page 14 section f). Second by Vice-Chair Fine. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

5. Motion. Motion by Member Van Deventer to allow counsel in finalizing this document to correct identified errors, typos, misspellings. Chair Galloway second the motion. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

6. Motion. Motion by Chair Galloway to accept CPOA's recommendation on the language from ordinance 2-6-1-6. Second by Member Van Deventer. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

7. Motion. Motion by Chair Galloway to not accept the recommendation that the board vote on a recommendation for City Council regarding the reappointment of existing members to additional terms. Member Van Deventer second the motion. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

8. Motion. Motion by Vice-Chair Fine that the Board notify Council 6 months prior of board members renewal and the boards attorney will finalize the language. Member Van Deventer second the motion. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

9. Motion. Motion by Chair Galloway to send the Policy and Procedures draft as a whole. Second by Member Van Deventer. The motion was carried by the following vote:

For: 4 – Galloway, St. John, Van Deventer, Waites

Against: 1 - Fine

10. Motion. Motion by Member Waites to approve changes as presented in the CPOA Policy and Procedures draft. Chair Galloway second the motion. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

11. Motion. Motion by Chair Galloway to allow Member Van Deventer to finalize and communicate with Mrs. Gooch on the changes to the draft and not to include Case Review Committee. Member Waites second the motion. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

XI. 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

009-19	028-19	034-19	043-19	047-19
056-19	060-19	061-19	065-19	066-19
075-19	078-19	089-19	098-19	099-19
107-19	109-19	111-19	112-19	113-19

b) Sustained

132-18

c) Agenda item XI was tabled per motion on agenda item IX a)

XII. Serious Use of Force/Officer Involved Shooting Cases.

a) There was no Serious Use of Force/Officer Involved Shooting Cases to present.

XIII. POB's Review of Garrity Materials.

a) There was no Garrity Materials to present.

XIV. Other Business. None

XV. Adjournment – A motion was made by Vice-Chair Fine to adjourn the meeting. Member St. John second the motion. The motion was carried by the following vote:

For: 5 – Galloway, Fine, St. John, Van Deventer, Waites

The meeting adjourned at 7:47pm

Next Regularly scheduled POB meeting will be on July 11, 2019 at 5:00 p.m. in the Vincent E. Griego Chambers.

Attachments

DRAFT

POLICE OVERSIGHT BOARD
INTERNAL AFFAIRS
STATISTICAL DATA FOR THE MONTH OF MAY 2019

APD 911 Communications Center
Dispatched calls for Service for MAY 2019: 42,271 (increase from APRIL (773))
x

INTERNAL CASES FOR THE MONTH OF MAY 2019

Total Internal Cases Completed the Month of MAY:

Comprised of:

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

Internal Cases Administratively Closed: 0

Internal Cases Mediated: 0.

Discipline imposed for Internal Cases MAY 2019

4: LETTER OF REPRIMAND UOF REQUIREMENTS
1: SUSPENSION/8 HOURS SUPERVISORY INVESTIGATION REQUIREMENTS

EIRS FOR MAY 2019: 16 alerts distributed

Pending IA Cases for the Month of MAY 2019: 29

IA/IAC Cases opened in the month of MAY 2019: 6

Crash Review Board Update

Stats are for APD officers/APD Employees involved crashes from Jan. 1,
2019 thru March 31, 2019.

Preventable Crashes this quarter
(January. 1, 2019 thru March 31, 2019):

- 20 Non-preventable crashes.
- 16 Preventable crashes.
- 3 Officers had 2 Preventable crashes
within a 12 month period.
- 1 Officer had 3 Preventable crashes
within a 12 month period.

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

APD Crashes Involving Police Crashes from
Jan. 1, 2019 - Mar. 31, 2019:

\$430,021.47; 3rd Party pay out (bodily injury
or property damage). 43 claims.

\$131,775.74; 1st party damage to City
property involved in APD crashes. 1st party
refers to single vehicle crashes (example:
police vehicle strikes a curb).



Police Officer Driver Training Program:

On May 22, 2019 the Chief of Police issued a Special Order providing a list of officers who MUST attend the Charlie Fegan Vehicle Operations Course at Sandia Speedway. The course is a full two day driving course but broken up into three different groups of officers. This driving course puts officers behind the wheel and thru different driving scenarios in a closed course setting.

Police Officer Driver Training Program (con't):

This Special Order had 24 officers listed but broken up into three groups. The first group will go June 11-12, June 13-14 and June 17-18.

Harness, Edward

From: Moya, Julian N
Sent: Thursday, June 13, 2019 2:26 PM
To: POB; Harness, Edward
Cc: Yara, Stephanie
Subject: City Council Report for June 13, 2019 CPOA Board Meeting:

Madam Chair, Board Members;

My apologies for not being able to attend tonight's meeting. Below is my report.

At Monday's Finance and Government Operations Committee Meeting, Director Harness presented and discussed the 2017 CPOA Annual Report. Final acceptance of the report will happen at a City Council Meeting in August.

The Council will be introducing communications to appoint two new members, Ms. Tara Armijo-Prewitt and Mr. Eric Olivas, to the Board at next Monday's City Council Meeting. Staff will also be requesting immediate action on the items to have them approved that night. For the remaining open board position, Council Staff will be re-reviewing current candidates and recently received applications for appointment. We plan to have that appointment ready for August when the Council returns from their July break. As we did with the last appointments, when we've chosen a candidate we will send you their contact information for orientation with the Outreach Subcommittee.

Please contact me with any questions. Thank you.

Julian Moya
Special Projects Analyst
Albuquerque City Council
(505) 768-2511
julianmoya@cabq.gov
cabq.gov/council



Civilian Police Oversight Agency
Edward Harness, Esq., Executive Director

Civilian Police Oversight Agency Board
Chantal M. Galloway, Chair
Joanne Fine, Vice Chair
Leonard Waites, Valerie St. John, Dr. William Kass, Chelsea N. Van Deventer

June 13, 2019

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

Re: SOP 2-8 On Body Recording Devices; SOP 2-16 Records; MOU between APD and Albuquerque Pawn Brokers Association [APBA]

Dear APD,

The Civilian Police Oversight Agency Board writes to make the following recommendations:

SOP 2-8 On Body Recording Devices

Currently, SOP 2-8, which details when an officer is required or permitted to record video, does not require that officers record their interactions when dealing with traffic accidents. With some frequency, the CPOA handles complaints where a party to a traffic accident accuses an officer of inaccurate reporting, or mishandling information, or of not collecting information. The Board therefore recommends that SOP 2-8 be modified to require that traffic accidents be included in the list of mandatory recording incidents. Recording these incidents would serve to insulate officers and PSAs from false claims of inaccurate reporting.

SOP 2-16 Records

Currently, there are some issues with the tracking of, or failure to track, traffic citations which are filed in the Metropolitan Court. The Board recommends, unless and until the electronic system TRAX can communicate directly with the Court, that a paper log be kept at all locations where paper copies of traffic citations are deposited by officers for delivery to the Metropolitan Court. Those logs should be retained and periodically audited for compliance.

MOU between APD and Albuquerque Pawn Brokers Association [APBA]

The current MOU between APD and the APBA was established and agreed upon by both parties in 1997 and should be updated to reflect current practices, policies, and procedures. As it stands, the MOU does not fully and accurately reflect current practices, policies, and procedures.

Sincerely,

Chantal M. Galloway
Civilian Police Oversight Agency Board

CC: City Council President Klarissa J. Pena
Mayor Tim Keller
City Attorney, Esteban A. Aguilar Jr.
James Ginger Ph.D.
United States Attorney, John C. Anderson
City Clerk, Katy Duhigg
APD, Commander Michelle Campbell

Civilian Police Oversight Agency Policies and Procedures

ARTICLE I -- PURPOSE

1. Recognizing that a properly conceived and functioning police oversight system is necessary to promote accountability of police officers and protect the rights of citizens, the City Council adopted the Police Oversight Ordinance, § 9-4-1-1 to 9-4-1-14 ("Ordinance").

2. Through the Police Oversight Ordinance, the City Council created the Civilian Police Oversight Agency ("CPOA") as an independent agency of City Government, not part of either the City Administration or City Council. The CPOA is overseen by the Civilian Police Oversight Agency Board (the "Board") and operates through an Administrative Office. The Executive Director of the CPOA leads the Administrative Office and reports to the Board.

3. These policies and procedures set forth the structure of the Board and CPOA and the manner in which they will operate. The policies and procedures may be supplemented by office policies the Board may approve related to internal operations of the Administrative Office.

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ARTICLE II -- MEETINGS

1. Regular Meetings. The Board will hold regular monthly meetings, which it currently schedules at 5:00 p.m. on the second Thursday of every month in the Vincent E. Griego Chambers, Albuquerque/Bernalillo County Government Center.

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2. Special Meetings. Special meetings may be called by the Chairperson or a majority of the members upon three days notice. On the petition of 1,000 or more civilians in the City of Albuquerque, the Board also shall hold a special meeting for the purpose of responding to the petition, and hearing and inquiring into matters identified therein as the petitioners' concern(s). Copies of the petition shall be filed with the Board by the City Clerk. Notice of such meeting shall be given in the same manner as notice if given for other meetings of the Board and shall comply with the Open Meetings Act.

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3. Emergency Meetings. Notwithstanding any provision contained in these policies and procedures, the Chairperson may, in the event of an emergency, call with whatever notice is possible under the circumstances, a meeting of the Board to consider any matter. "Emergency" for the purpose of this section refers to unforeseen circumstances that, if not addressed immediately by the Board, will likely result in injury or damage to persons or property or substantial financial loss to the City and/or the CPOA specifically. Within ten days of taking action on an emergency matter, the Board shall report to the New Mexico Attorney General's Office the action taken and the circumstances creating the emergency, unless a state or national emergency has been declared.

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4. Open Meetings. Except as may otherwise be provided in the Constitution of the State of New Mexico or the Open Meetings Act, all meetings of a quorum of members of the Board, held for the purpose of formulating public policy, discussing public business or taking any action within the Board's authority or the delegated authority of the Board, are to be public meetings open to the public at all times. Each year, the Chairperson of the Board shall introduce, and the Board shall adopt, a resolution establishing procedures to provide reasonable notice of Board meetings to the public. Meetings will be conducted with a prepared, timely posted agenda, and, except for emergency matters, the Board shall take action only on items included in the agenda. Regularly scheduled meetings will be televised live on the appropriate government access channel, if it is operating. Special meetings shall be videotaped and aired on the appropriate government access channel.

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5. **Quorum.** A majority of the appointed and approved members of the Board serving at any time shall constitute a quorum thereof.

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6. **Public Comment and Addressing Meetings.**

A. The Board will provide an opportunity for public comment at the beginning of each meeting and for each agenda item during a meeting. Public comment shall be limited to three minutes, unless extended by the Chairperson.

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B. When an individual civilian police complaint is on the agenda for the Board to review, the complainant or complainant's authorized representative will be provided with a minimum of five minutes to address the Board relating to the complaint and investigation.

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C. Public comment must be directed to the Board through the Chairperson or presiding Board member, not at staff members or members of the audience.

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D. The Board may invite representatives of the City, other government bodies, or the public to speak on matters relevant to the Board's work.

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E. Items displayed during an individual's public comment must be removed at the end of that person's public comment.

F. No signs, props, posters, or banners will be allowed in the meeting chambers other than those that are 8½" x 11" or smaller. Such material shall not be held or waived in a manner that blocks the view of others or creates a distraction from the speaker or the business at hand.

7. **Records.** The Executive Director of the CPOA shall serve as the records custodian for the Civilian Police Oversight Agency and its Board, unless the Executive Director designates another full-time employee to serve as the records custodian during the course of that employee's employment with the CPOA. If the Executive Director designates another full-time employee as the records custodian, the Executive Director shall ensure that: 1) the information necessary to make an Inspection of Public Records Act (IPRA), including the name and contact information of the present records custodian appears plainly on the CPOA website; and 2) internal policies are in place so that any IPRA requests sent to the Executive Director or staff person of the CPOA, or any member of the Boar, be directed to the records custodian and the person making the IPRA request be informed.

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8. **Attendance.** Board members shall attend all meetings of the Board, unless excused by the Chairperson.

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9. **Disturbing Meetings.** It shall be unlawful to disturb any meeting of the Board, or any of its subcommittees, or to behave in a disorderly manner at any such meeting. There will be no tolerance for disruptive public outbursts or disruptions that impede the orderly progress of a meeting. The Chairperson or presiding Board member will provide one warning to anyone who causes a disruption. Upon a second or continued disruption, the Chairperson or presiding Board member will ask that person to leave the Chambers, and, if necessary, will ask that security escort that person out of the Chambers. Such removal from the Council Chambers or Committee Room will be effective for the remainder of that meeting. If continued disruptions occur, the Chairperson or presiding Board member may recess the meeting until order is restored, and, if necessary, may clear the Chambers or Committee Room of persons participating in the disturbance.

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ARTICLE III – ORGANIZATION OF THE CIVILIAN POLICE OVERSIGHT AGENCY BOARD

1. **Election of Chairperson and Vice-Chairperson.** The Board shall elect one of its members as the Chairperson and one as the Vice-Chairperson. No officer shall be eligible to immediately succeed himself or herself in the same office. The Board shall select the Chairperson and Vice-Chairperson at the first meeting in the month of March of each calendar year or upon vacancy of an office to fill the remaining term. The Chairperson and Vice-Chairperson shall serve at the pleasure of the Board until their successor(s) have been selected.

2. **Powers and Duties of the Chairperson and Vice-Chairperson.**

A. The Chairperson shall:

- (1) Call the Board to order and, upon a quorum being present, proceed to business;
- (2) Preserve order and decorum and, during Board meetings, have general direction of the Vincent E. Griego Chambers or any location where the meeting is held;
- (3) Have the responsibility for preparation of the agenda and dissemination of the agenda with the public notice for the meeting;
- (4) Decide all questions of order, subject to a Board member's right to appeal to the Board as a whole;
- (5) Have the right to speak, as other Board members, on general questions from his or her chair;
- (6) Vote upon all questions in the same manner as other Board members;
- (7) Announce the result promptly on the completion of every vote;
- (8) Appoint all subcommittees, subject to the approval of the Board;
- (9) Sign all resolutions, letters, and official documents on behalf of the Board;
- (10) Receive all formal messages and communications from the Mayor, City Council, and others;
- (11) Hold over or refer to the appropriate subcommittee any issue of interest to the Board;
- (12) Have the authority to sign all agreements for professional/technical services entered into by the Board to facilitate its functions pursuant to applicable procurement statutes and requirements.

B. Designate one Board member to serve on each APD policy development committee at the first meeting in the month of March of each calendar year, or upon vacancy of an office to fill the remaining term. The Board member designated by the Chair, as well as the Executive Director, shall each serve as voting members and representatives of the Board on such committees, and shall report

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back to the Board about the outcomes and votes cast at the next regularly scheduled Board meeting.

C. In the absence of the Chairperson, upon the Chairperson's inability to act, or upon request of the Chairperson, the Vice-Chairperson shall preside and shall have all the powers and authority of the Chairperson.

3. **Subcommittees.**

A. The **Board** may create such subcommittees as it deems necessary or desirable in performing authorized functions provided that, membership on such subcommittees shall be limited to **Board** members. Subcommittees shall consist of any number of Board members fewer than a quorum. No Board member shall serve on any more than two subcommittees at any given time.

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B. Subcommittees only shall conduct business when a quorum of the subcommittee is present. A Board member may designate an alternate Board member to attend a subcommittee meeting when the Board member regularly assigned to the subcommittee is unable to attend. A majority of the members of the **Board** assigned to a subcommittee and designated alternates shall constitute a quorum of a subcommittee.

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C. Each subcommittee shall elect a Chairperson at the first meeting of the Board in the month of March of each calendar year or upon vacancy of an office to fill the remaining term. The Chairperson may serve consecutive terms, and previous service as the Chairperson shall not prevent a member serving as the Chairperson of a subcommittee. The Chairperson shall vote on all matters before the subcommittee in the same manner as other members of the subcommittee. The Chairperson also may make or second motions.

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D. At each regular **Board** meeting following a subcommittee meeting, the subcommittee Chairperson shall give an oral report from the subcommittee meeting. The regular meeting minutes shall contain a summary of the subcommittee report.

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E. The **Board** Chairperson may request that subcommittee reports be submitted in writing and provided to the full **Board**. If written reports are submitted, reports of the minority of the subcommittee may be also included.

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F. Subcommittees shall report on all matters referred to them without unnecessary delay. If a subcommittee refuses or neglects to report on any matter referred to it, the Chairperson may take the matter from the subcommittee.

G. The Open Meetings Act typically does not apply to subcommittees, subcommittees endeavor to act within the spirit of the Open Meetings Act and as such will, at minimum, post their agendas with 72 hours of notice, allow each member of the public a minimum of three minutes of public comment, and will record minutes of each meeting for posting. Subcommittees will comply with the Open Meetings Act in all instances where the Open Meetings Act applies.

Deleted: A subcommittee may be designated to review civilian police complaints and related matters. Any subcommittee designated responsibility for reviewing civilian police complaints may recommend that specific complaint cases be placed as a consent agenda item for a POB meeting. At such meeting, any Board member may request that a complaint case on the consent agenda be removed and placed instead on the non-consent agenda.

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4. **Conflicts of Interest.** A Board member shall withdraw from any proceeding in which he or she has a direct or indirect conflict of interest, or does not believe he or she can provide a fair and impartial hearing. Board members should err on the side of caution and withdraw from any proceeding in which there is an appearance of a conflict of interest.

5. **Removal of Members.** Any **Board** member may be removed for cause by a two-thirds

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vote of either the Board or the City Council. In addition to any other reasonable cause, any conduct inconsistent with the requirements and provisions of this Police Oversight Ordinance, or a demonstrated inability to objectively adjudicate civilian police complaints shall constitute cause for removal. The appointment of any Board member who has been absent and not excused from three consecutive regular or special meetings shall automatically expire effective on the date the Board reports such absence to the City Clerk. The City Clerk shall notify any member whose appointment has automatically terminated and report to the City Council that a vacancy exists requiring an appointment for the length of the unexpired term.

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6. **Orientation and Training.** Upon initial appointment, Board members shall complete an orientation and training consisting of the following:

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A. Required Orientation: Prior to participating in any Board meetings, newly appointed members must first:

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- (1) Be trained by the CPOA staff or CPOA legal counsel on CPOA policies, and procedures; and
- (2) Attend at least one Board meeting as an observer (except for reappointed Board members).

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B. Required Training. Each Board member shall complete a training program within the first six months of the member's initial appointment that consists, at a minimum, of 24 hours of training that covers the following topics:

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- (1) Completion of those portions of the Albuquerque Police Department ("APD") Civilian Police Academy that APD determines are necessary for the Board to have a sound understanding of the Department, its policies, and the work officers perform. For purposes of this training requirement, APD shall identify those portions of the standard APD Civilian Police Academy Program that are optional for Board members and shall make other aspects of the program available for Board members to complete independently.
- (2) Civil rights training, including the Fourth Amendment right to be free from unreasonable searches and seizures, including unreasonable use of force.
- (3) At least two APD ride-alongs.
- (4) Annual firearms simulation training.
- (5) Internal Affairs training.
- (6) Training provided to APD officers on use of force, including a review and familiarization with all APD policies related to use of force, and including policies related to APD's internal review of force incidents.
- (7) Equity and Cultural Sensitivity training.
- (8) Training on the 2014 Department of Justice ("DOJ") Settlement Agreement with the City of Albuquerque (or any subsequent agreements), and Findings

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Letter of April 10, 2014 (or any subsequent findings letters).

- (9) Training on the Police Oversight Ordinance and the duties, obligations, and responsibilities that it imposes on Board members and the CPOA.
- (10) Training on state and local laws regarding public meetings and the conduct of public officials, including but not limited to inspection of public records, governmental transparency, and ethics.
- (11) A briefing that identifies and explains the curriculum of all training received or to be received by APD officers, including any outside training not provided by the City.

C. Required On-Going Training. Board members shall receive eight hours of annual training on any changes in law, policy, or training, as well as developments in the implementation of the 2014 DOJ Settlement Agreement (or any subsequent agreements) until such time as the terms of the agreement are satisfied.

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D. Board members shall participate in at least two police ride-alongs for every six months of service on the Board.

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E. The Executive Director shall report completion of each Board member's initial and ongoing training activities to the Chair of the Board at regular intervals so as to keep the Chair of the Board apprised of these activities.

F. CPOA investigators shall receive at least 40 hours of initial training in conducting misconduct investigations within one year of hire. CPOA investigators also shall receive at least eight hours of training each year thereafter. The training shall include instruction on APD's policies and protocols on taking compelled statements and conducting parallel administrative and criminal investigations.

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7. CPOA Staff. CPOA employees shall staff, coordinate, and provide technical support for all scheduled Board meetings, publicize all findings and reports, recommendations, and/or suggested policy changes. The Board also may consult with CPOA staff for relevant information that will aid the Board in its work.

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8. Executive Director

A. Selection and removal of the Executive Director shall be governed by the Police Oversight Ordinance.

B. In the event of the prolonged absence of the Executive Director, or during a period after the Executive Director has ended contractual obligations with the City and a temporary appointment has not yet been completed, complaints will be assigned to CPOA investigators subject to the Chairperson's direction, including with regard to determining any need for outside independent investigators. In such circumstances, CPOA investigators shall continue preparing proposed findings and recommendations for civilian complaints. The Chairperson may designate an acting Executive Director for purposes of presenting civilian complaints to the Board during any such period of time.

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C. The Board shall annually review the performance of the CPOA Executive Director

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taking into consideration the obligations and duties prescribed by the Police Oversight Ordinance and the performance of the CPOA Administrative Office.

D. Upon completion, the Board shall provide a summary of its annual performance evaluation of the Executive Director to the Chief of Police, the Mayor, and the President of City Council for receipt by the Council.

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9. **Independent Counsel.** The CPOA may retain or employ independent legal counsel on a contractual basis to advise and represent the CPOA. If so retained, the CPOA's legal counsel shall represent the CPOA in the courts, and shall advise the CPOA as to any legal matters relating to the Police Oversight Ordinance and the CPOA's duties, responsibilities, and procedures except for CPOA personnel matters, which shall remain under the authority of the City Attorney's Office.

10. **Indemnification of CPOA Staff and Board.** The City shall hold harmless, indemnify, and defend the Executive Director, CPOA staff, and Board members when liability is sought for conduct allegedly committed within the scope of the relevant individual's duties, responsibilities, and service to the CPOA. This shall include providing the impacted individual with legal representation including, where appropriate, outside counsel.

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ARTICLE IV- PROCEDURES

1. Definitions.

A. "Use of Force" is defined by the DOJ Settlement Agreement—as may be amended from time to time and APD's standard operating procedure 2-53.

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2. **General Rules.** Any matter not covered by these rules shall be governed by Roberts' Rules of Order (latest edition), or, if not covered by Roberts' Rules of Order, by a decision of the Chairperson, subject to the right of appeal.

3. **Amendment of Rules.** These rules, or any part thereof, may be amended, repealed, altered or rescinded by a vote of a majority of all Board members.

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4. **Suspension of Rules.** These rules, or any part thereof, may be temporarily suspended by a vote of two-thirds of the Board members present. The following shall apply if fewer than nine Board members are present:

<u>Board Members Present</u>	<u>2/3 Vote</u>
8	6
7	5
6	4
5	4
4	3

When the suspension of a rule is requested and no objection is offered, the Chairperson shall announce the rule suspended, and the Board may proceed accordingly.

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4. **Time Computation.** In computing any period of time prescribed or allowed by these rules or the Police Oversight Ordinance, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Unless otherwise specified, any period prescribed or allowed by these rules that is longer than (10) days shall be calculated as calendar days.

If the last day of any designated period is a Saturday, Sunday, or legal holiday, the period will end on the next business day.

5. **Order of Business.**

A. The **Board** shall consider business in the following order:

- (1) Welcome and Call to Order
- (2) Pledge of Allegiance
- (3) Public Comment
- (4) Review/Approval of Minutes
- (5) Hearings on Requests for Reconsideration
- (6) Findings by **Board**
- (7) Reports from Sub-Committees
- (8) Reports from CPOA or City staff, including the CPOA Executive Director, Independent Counsel, Mayor, City Council, City Attorney, and Albuquerque Police Department.
- (9) Other Business

B. The Chairperson shall have the discretion to proceed out of order to any order of business or return to any prior order of business.

6. **Motions.** No motions shall be entertained or debated until announced by the Chairperson, and every motion shall be seconded prior to debate.

7. **Debate.**

A. Any Board member wishing to speak, debate, make a motion, submit a report, or conduct other business shall address the Chairperson and shall not proceed further until recognized by the Chairperson.

B. If two or more Board members seek recognition at the same time, the Chairperson shall name the one who shall speak first.

C. The Board member who sponsors a motion shall have the privilege of opening and closing debate. A Board member may direct an inquiry and receive a response without yielding the floor.

D. No Board member shall be permitted to speak more than once on any motion until every Board member desiring to be heard has been allowed to speak. Nor shall any Board member except the sponsor of the motion speak more than a total of ten minutes on any motion.

E. No Board member shall be interrupted when speaking, nor shall any motion be in order until the Board member has concluded.

F. No question shall be asked of the Board member except those directed through the Chairperson with the consent of the Board member.

8. **Voting.**

A. Voting shall be in the form of "Yes" or "No." Any action on a question is lost by a tie vote. Every Board member who is within the room shall vote upon each question, except those who have disqualified themselves due to a conflict of interest.

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B. A Board member shall be allowed to change his or her vote but only before the result has been announced.

C. A Board member may request to vote by telephone or other similar device when a medical or emergency situation exists. Such voting can only take place upon the approval of the Chairperson and provided that the Board member can be heard on a speaker to enable the Board and the public to determine when the Board member is speaking and casting a vote.

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D. Reconsideration. Any Board member who voted with the prevailing side on any question may move at the same meeting to reconsider the question. A motion to reconsider shall require the affirmative vote of a majority of Board members present.

E. An appeal may be made on any decision of the Chairperson. The Board member appealing the Chairperson's decision will speak and the Chairperson may respond. Such appeals shall be acted upon immediately, and no other motions shall be entertained until the question has been decided. A vote of the majority of the Board members present shall be required to sustain an appeal.

F. Any Board member may move to end debate. A majority of the Board members present must agree to end the debate or it may continue.

G. A Board member may be permitted to explain his or her vote, but only after the roll call has been completed and the result has been announced.

9. **Decorum.** Board members or other speakers shall confine their remarks to the question under discussion or debate, avoiding personal attacks. No Board member shall engage in private discourse or commit any other act tending to distract the attention of the Board from the business before it.

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10. **Early Departure.** Any Board member leaving a Board meeting early shall make the Chairperson aware of such departure as early as possible, so that allowances in scheduling business can be made. Any Board member leaving a subcommittee meeting when the departure will cause a loss of quorum shall make every effort to secure an alternate Board member to sit on the subcommittee.

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ARTICLE V – INVESTIGATION AND REVIEW OF CIVILIAN COMPLAINTS, SERIOUS USES OF FORCE, AND OFFICER INVOLVED SHOOTINGS

I. Civilian Complaints.

A. Any person claiming to be aggrieved by the actions of the APD may file a complaint against the department or any of its officers or employees. Anonymous and third-party complaints shall be accepted, and there is no time limitation on when a complaint may be filed with the CPOA.

B. Neither the Board nor any of its members shall file or initiate a complaint on behalf of a member of the public. Any Board member who files or otherwise initiates a complaint shall recuse from taking any action on the complaint, including evaluating the complaint and voting on its disposition.

C. Complaints may be made in writing or verbally, in person or by mail, telephone (or TDD), facsimile, or electronic mail. Any Spanish-speaking individual with limited English proficiency who wishes to file a complaint about APD personnel shall be provided with a complaint form in Spanish. Efforts will be made to accommodate other non-English speakers. All such complaints will be investigated in accordance with policies and procedures set forth herein and associated policies.

D. The CPOA will receive and process all civilian complaints directed against the APD and any of its officers or employees. The Executive Director shall independently investigate, or cause to be investigated, all civilian police complaints and prepare findings and recommendations for review by the Board. The Executive Director shall oversee, monitor and review all investigations and findings prepared for complaints assigned to staff or an outside investigator. For all investigations, the Executive Director shall make recommendations and give advice to the Board, regarding APD policies and procedures as the Executive Director deems advisable.

E. All civilian complaints filed with other offices within the City authorized to accept civilian complaints, including the APD, shall be referred by the recipient to the Executive Director for investigation within three business days of receipt.

F. The Executive Director shall ensure that the investigation of all civilian complaints filed with the CPOA begin immediately after the complaints are filed and proceed as expeditiously as possible. The Executive Director shall be prepared to brief the Board on the status of any investigations that are not on track to be completed in sufficient time for the Board to make disciplinary recommendations in advance of the deadline for the Chief of Police ("Chief") to impose discipline.

G. The Executive Director shall ensure that investigations of civilian complaints are as thorough as necessary to reach reliable and complete findings, and are objective, fair, impartial, and free from political influence. In addition to other information and evidence the CPOA obtains through investigation, investigators shall review records provided by the City that reflect:

- (1) the complete disciplinary history of the officers involved in incidents under review;
- (2) where their inclusion will aid the investigation, documents, reports, and other materials for incidents related to those under review, such as incidents involving the same officer(s);
- (3) all APD policies and training; and
- (4) where their inclusion will aid the investigation, documents, reports, and other materials for incidents that may evince an overall trend in APD's use of force, internal accountability, policies, or training.

H. After the investigation of a civilian complaint is completed, the Executive Director shall analyze all relevant and material circumstances, facts and evidence that investigators gathered during the investigation related to the issues raised in the complaint and potential collateral violations of APD policies and procedures, or criminal law. The Board must conduct its review and consideration of the Executive Director's proposed findings and recommendations at a properly-noticed open meeting of the Board. The Executive Director shall then prepare investigation reports with proposed findings and recommendations for each investigation, and submit them to the Board for its review and consideration. In cases in which clear evidence suggests misconduct involved a different officer, a second investigation should be opened relating to the second officer's actions.

I. The Executive Director shall explicitly identify and recommend to the Board, one of

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the following dispositions for each allegation of misconduct in a civilian complaint:

- (1) "Unfounded," where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject APD Employee;
- (2) "Sustained," where the investigation determines, by a preponderance of the evidence, the alleged misconduct did occur;
- (3) "Not Sustained," where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred;
- (4) "Exonerated," where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training;
- (5) "Sustained violation not based on original complaint," where the investigation determines, by a preponderance of the evidence, that misconduct did occur that was not alleged in the original complaint but that was discovered during the misconduct investigation; or
- (6) "Administratively closed," where the policy violations are minor, the allegations are duplicative, or investigation cannot be conducted because of the lack of information in the complaint. Administrative closing of a complaint investigation shall be used only for the most minor policy violations that do not constitute a pattern of misconduct, duplicate allegations, or allegations that even if true would not constitute misconduct. Administratively closed complaints may be re-opened if additional information becomes available. In such cases, the deadlines for investigation and review set forth above shall run from when the complaint is re-opened.

I. The burden of proof is not imposed on any party to a civilian complaint but instead rests with the investigating agency.

J. All investigations of civilian complaints shall be completed within 90 days of initiation of the complaint investigation. The 90-day period shall not include time for review. An extension of the investigation of up to 30 days may be granted, but only if the request for an extension is in writing and is approved by the Chief. To the extent permitted by state and city law, extensions may also be granted in extenuating circumstances, such as military deployments, hospitalizations of the officer, and extended absences. The Chief has 30 days from completion of the investigation to impose discipline. Investigations shall be submitted to the **Board**, with sufficient time for Board members to determine the appropriate disposition and submit any recommendation related to discipline to the Chief for consideration before the deadline for imposing discipline expires. The **Board** may make findings and recommendations on complaints that are not resolved within these timelines despite any limitations it may have on the purposes for which APD may use the **Board's** findings and recommendations.

K. If at any time during a misconduct complaint intake or investigation a CPOA investigator determines that there may have been criminal conduct by any APD personnel, the investigator shall immediately notify the Internal Affairs Division commanding officer and transfer the investigation to the Internal Affairs Division.

L. The Executive Director, **and** CPOA staff may file complaints against APD personnel pursuant to the Police Oversight Ordinance in the same manner as any other citizen. Such complaints

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shall be addressed as follows:

- (1) Any Board member who is a witness for a civilian police complaint shall be recused from participating in any findings, votes, or recommendations concerning the complaint.
- (2) Where a member of the CPOA staff is a complainant or witness for a civilian police complaint, the Executive Director shall retain an independent outside investigator to investigate the complaint. Absent a conflict of interest that precludes forming a quorum, the Board will process and decide the complaint in the same manner it decides other civilian complaints. If there is a conflict of interest that precludes forming a quorum, the Board will refer the investigative file to the Chief for his consideration of possible discipline.
- (3) If the Executive Director is a complainant or witness for a civilian police complaint, or if the Executive Director otherwise determines that a conflict precludes the Executive Director from participating in the investigation and presentation of a civilian police complaint to the Board, an independent investigator shall perform the functions of the Executive Director for purposes of that complaint.

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2. Serious Uses of Force and Officer Involved Shootings.

A. The Executive Director shall receive all APD reports of serious uses of force and officer involved shootings. The Executive Director shall timely review these materials and assign them for investigation or review by the investigative staff.

B. The Executive Director will oversee, monitor, and review all investigations or reviews of serious uses of force and officer-involved shootings, and make findings for each. All findings will be made available to the public on the CPOA website as soon as practicable.

C. Before taking action related to a serious use of force or officer involved shooting, the Executive Director shall confer with the relevant prosecuting agency and/or federal law enforcement agency to assess the likelihood of an officer being criminally prosecuted based on the incident. The Executive Director may delay or decline to proceed with any action related to a serious use of force or officer involved shooting until completion of the criminal investigation unless, after consultation with the prosecuting agency, the Executive Director determines that proceeding is appropriate and will not compromise a criminal investigation. If the Executive Director seeks to proceed with investigating or presenting to the Board a serious use of force or officer involved shooting despite a prosecuting agency or federal law enforcement agency indicating that doing so would interfere with a criminal investigation, the Executive Director only may proceed after obtaining approval to do so through a 2/3 vote of the Board.

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3. Investigation Protocol.

A. CPOA investigators only shall advise APD personnel of their Fifth Amendment rights where there is a reasonable likelihood of a criminal investigation or prosecution of the subject employee.

B. In each investigation the CPOA conducts, the Executive Director and assigned investigator shall consider all relevant evidence, including circumstantial, direct, and physical evidence.

- (1) There will be no automatic preference for an APD officer or APD Employee's statement over a non-officer's statement, nor will the Executive Director or investigator disregard a witness's statement merely because the witness has some connection to the complainant or because of any criminal history or any concern regarding mental illness.
- (2) During its investigation, the CPOA shall take into account any convictions for crimes of dishonesty of a civilian complainant or any witness,
- (3) The CPOA shall take into account the record of any involved officers who have been determined to have been deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation. The investigator shall, at a minimum, obtain from Internal Affairs all information related to such prior determinations for any officer whose credibility is at issue in any investigation.

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C. Any findings and recommendations the Executive Director prepares shall indicate whether within the past year there were any IA investigations or supervisor generated complaints against the officer(s) involved in the incident being investigated or that are otherwise relevant to the subject matter of the investigation, the general nature of the prior investigations or complaints, and whether they resulted in any discipline.

D. In addition to determining whether APD personnel engaged in misconduct, investigations shall assess and document whether the action(s) under review were in compliance with training and legal standards, and whether the incident suggests the need for a change in policy, procedure, or training.

4. Access to APD Documents.

A. The City shall provide reasonable access to APD premises, files, documents, reports, and other materials for inspection by Board members, CPOA investigative staff, and the Executive Director upon reasonable notice.

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5. Administrative Subpoenas.

A. The CPOA may issue administrative subpoenas, in the form that has been approved by the Board and Executive Director, and attached hereto as Appendix A, only as necessary to investigate civilian complaints, or to audit and monitor incidences of use of force by police.

B. Prior to seeking an administrative subpoena, the Executive Director must make a reasonable attempt to exhaust all other avenues for obtaining the information sought.

C. To issue an administrative subpoena, the Executive Director must ensure that:

- (1) the inquiry is within the authority of the CPOA;
- (2) the demand is not too indefinite;
- (3) the information is relevant to the purpose of the investigation; and
- (4) all other criteria for the issuance of an administrative subpoena as set forth by New Mexico law are met.

D. The Executive Director must obtain Board authorization to issue an administrative subpoena. A simple majority vote of the membership of the Board in favor is required before an administrative subpoena may be issued.

E. Administrative subpoenas shall be served in a manner that complies with all

requirements for administrative subpoenas under New Mexico Law. Administrative subpoenas shall identify with reasonable specificity the person(s) or document(s) sought as well as the general relevancy to an issue in the case of the testimony or document(s) sought.

F. An administrative subpoena must provide at least 14 calendar days' notice prior to the deadline for responding to the subpoena and be served on the following:

- (1) the subpoenaed person or entity;
- (2) any individual or entity that is the subject of subpoenaed records; and
- (3) the City Attorney for the City of Albuquerque.

G. The administrative subpoena and notice to third parties must include a citation to the Ordinance, § 9-4-1-5(J) and state that the recipient has the opportunity to challenge the administrative subpoena to the Board or in the district court having jurisdiction.

H. The summoned person or entity or any person or entity that is the subject of subpoenaed records may petition the Board or the district court of the county where he or she resides to vacate or modify the administrative subpoena.

(1) The person or entity to whom an administrative subpoena is directed may submit a written objection in advance of the date scheduled for the appearance or production required by the administrative subpoena. The objection must be in writing, delivered to the CPOA office, and must specify the grounds for the objection.

(2) For five (5) days after receipt of a timely submitted objection to an administrative subpoena, the CPOA will take no action to enforce the administrative subpoena or initiate prosecution of the person or entity to whom the administrative subpoena is directed. During this five-day period, the CPOA will consider the grounds for the objection and may attempt to resolve the objection through negotiation with the person or entity to whom the administrative subpoena is directed. The five-day period may be extended by the CPOA to allow completion of negotiations. The CPOA will provide written notice of the extension to the person or entity to whom the administrative subpoena is directed. Such notice will specify the date on which the negotiation period will end. Negotiations may include such matters as the scope of the administrative subpoena and the time, place, and manner of response thereto.

I. In the case of a refusal to obey an administrative subpoena issued to any person, the Executive Director may make application to the District Court in the state having jurisdiction to order the witness to appear before the Board and to produce evidence if so ordered, or to give testimony touching on the matter(s) in question.

J. Any summoned person may, at his or her own expense, be represented by legal counsel during all CPOA or Board proceedings.

K. The CPOA and Board shall not disclose any record obtained as a result of a subpoena that is protected or confidential by law, ordinance, policy, or the CASA.

L. Any applicable witness fees and/or costs associated with service of process for an administrative subpoena shall be paid by the CPOA.

M. In connection with the Board authorization to issue an administrative subpoena, the Board shall also vote to request an investigation time-limit waiver from any applicable association that may have such time limits or other deadlines in a collective bargaining agreement or other contract.

6. Board Review.

A. The Board shall review the proposed findings and recommendations at any properly noticed regular or special meeting.

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<#>The POB may issue subpoenas on its own initiative. When the POB issues a subpoena, a showing of relevance is not required and an appeal need not be pending.¶
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<#>The subpoena shall be issued by the City Clerk's Office and signed by the Chair or his/her designee.¶
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B. For its reviews of the proposed findings and recommendations, the Board shall:

- (1) Remain impartial in deliberations and decisions and abstain from any independent investigation or review of information not presented by the investigation report or within the investigation file;
- (2) Refrain from any ex-parte communication relating to the matters and parties under consideration other than at a properly noticed meeting, and recuse from any related hearings as may be necessary based on any improper ex parte communication; any ex-parte correspondence that is inadvertently received by a member shall be referred to or otherwise disclosed to the Director and, when appropriate, made available for review by the relevant complainant and APD officer or their representatives; and
- (3) Refrain from prejudgment on complaints coming before the Board until such time as all relevant information has been reviewed and considered at a properly noticed meeting, and recuse from any hearing in which he or she has a direct or indirect personal conflict of interest or cannot otherwise accord a fair and impartial review, or in which such member's participation would create the appearance of impropriety or partiality.

C. After the Board has reviewed the proposed findings and recommendations the Executive Director prepares, the Board shall, by majority vote of members present,:

- (1) Approve the findings and recommendations as proposed;
- (2) Approve other findings and recommendations as the Board determines are supported by the investigation file;
- (3) Defer action on the matter to allow for further investigation or analysis by the Executive Director on specifically identifiable matters.
- (4) Return the findings and recommendations to the CPOA for editing, proofreading, or other requested improvements to the draft.
- (5) Findings and recommendations returned to the CPOA pursuant to these subsections herein shall be returned to the Board for a final review again pursuant to the subsections contained herein.

D. The full investigation file shall be available to the Board for its review subject to the limitations on access and confidentiality set forth in Article VII below.

E. In reviewing completed investigations, the Board shall assess and document whether:

- (1) the incident suggests that APD should revise strategies and tactics;
- (2) the incident indicates a need for additional training, counseling, or other non-disciplinary corrective measures;
- (3) the incident suggests revisions to policy or procedures.

F. For civilian complaints, the Executive Director shall prepare and submit a public record letter to the civilian complainant, with a copy to the Chief, that outlines the findings and recommendations the Board approved. The Executive Director shall transmit that letter the next business day following the meeting during which the Board took action on the complaint.

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G. Unless the civilian complainant requests a hearing, within 30 days of receipt of the decision of the Board, the Chief shall notify the Board and the original civilian complainant of his or her final disciplinary decision related to the complaint in writing, by certified mail.

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H. The Executive Director may share any disciplinary recommendations with the Chief in advance of submitting those recommendations to the Board only as necessary to help ensure timeliness pursuant to any applicable personnel or union contract requirements.

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7. Requests for Reconsideration.

A. Any person who has filed a civilian complaint and who is dissatisfied with the findings and/or recommendations the Board approved may request reconsideration by the Board within thirty (30) calendar days (inclusive of weekends and holidays) of receipt of the public record letter.

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B. The Board may grant a request for reconsideration only upon a showing by the complainant that:

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- (1) a policy was misapplied in the evaluation of the complaint (i.e. the APD policy or policies that were considered by the Board were the wrong policies or they were used in the wrong way);
- (2) the findings or recommendations were arbitrary, capricious or constituted an abuse of discretion (i.e. the APD policy or APD policies considered by the Board were chosen randomly, they do not address the issues in your complaint, or the findings of the Board had no explanation that would lead to the conclusion made by the Board); or
- (3) the findings and recommendations were not consistent with the record evidence (i.e. the findings were not supported by the evidence that was available to the Board at the time of the investigation).

C. The Board shall notify the Chief of the request for hearing and hold a hearing on the matter at its next regularly scheduled meeting provided that there is a period of at least ten (10) days between the receipt of the request for hearing and the next Board meeting.

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D. The Executive Director shall ensure notice is provided to the complainant at least one week prior to a hearing on the request for reconsideration.

E. Reconsideration hearings shall be included in the Board agenda.

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F. Complainants may submit a written request to delay a hearing on a request for reconsideration for up to two months. Failure to appear at a scheduled hearing or to request a delay in writing may result in the Board acting on the request for reconsideration without further input from the complainant.

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G. Time for hearings on a request for reconsideration shall be divided as follows:

- (1) 15 minutes for the complainant or representative
- (2) 5 minutes for the police officer, if present

- (3) 10 minutes for APD
- (4) 10 minutes for the CPOA Executive Director or designee
- (5) 5 minutes for the complainant or representative

The **Board** may combine separate appeals of the same action, in which case each appeal will receive an equal share of the complainant's time. The Chairperson shall indicate in advance the division of time. The parties shall decide on the speakers to use the time.

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H. New evidence may be accepted by the **Board** during the hearing on a request for reconsideration. Whether to accept new evidence a party proffers is left to the discretion of the **Board**, and the **Board** may decide to rely on the evidence on the record. If the **Board** decides that additional evidence is necessary and appropriate for the proper disposition of the request for reconsideration, it may accept the evidence offered during the hearing or require the CPOA Executive Director to obtain such evidence for future presentation. New evidence which could have been put in the record during previous investigations or hearings is not favored for introduction during a hearing on a request for reconsideration. New evidence that clarifies evidence already in the record may be allowed. New evidence offered to contradict evidence in the record may be allowed if such evidence appears convincing and is material to the proper disposition of a complaint.

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I. Board members may ask questions at any time of any witness present. When a Board member asks questions, the time limits set forth above are stayed until questioning is completed.

J. With regard to any request for reconsideration that has been filed with and is pending before the **Board**:

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- (1) No Board member shall communicate outside a hearing with the complainant or the complainant's representative.
- (2) No Board member shall knowingly communicate with a member of the public or an organization about the subject of the request for reconsideration. Information and correspondence that is not in the record at the time the request for reconsideration is submitted only may be considered in making a decision if it is accepted as new evidence as set forth above.
- (3) No Board member shall conduct their own investigations or add their own evidence to the record regarding any hearings on requests for reconsideration.
- (4) Any correspondence regarding the subject of a request for reconsideration that is an ex parte communication and is inadvertently received by a Board member shall be delivered to the CPOA Executive Director and be available for review by the complainant.
- (5) Notwithstanding the above, the CPOA Executive Director and CPOA staff may, upon the request of a Board member, communicate with that Board member at any time and by any means. Copies of any written materials from the CPOA Executive Director shall be distributed to all parties.
- (6) Board members shall remain impartial in deliberations and decisions and shall recuse from any related hearings as may be necessary based on receipt of improper ex-parte communications or in which he or she has a direct or

indirect personal conflict of interest or cannot otherwise accord a fair and impartial review, or in which such member's participation would create the appearance of impropriety or impartiality.

K. Upon close of the hearing on a request for reconsideration, the **Board** may modify or change the findings and/or recommendations of the public record letter and may make further recommendations to the Chief regarding the findings and/or recommendations and any discipline the Chief has imposed or proposed. Decisions on requests for reconsideration shall be determined by a majority of the Board members present. If the vote ends in a tie, the original findings and recommendations remain in place.

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L. Within twenty (20) days of receipt of the **Board's** decision, the Chief shall notify the **Board** and the original civilian complainant of his or her final disciplinary decision in this matter in writing, by certified mail.

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8. **Appeals of Disciplinary Decisions to the Chief Administrative Officer.** If any person who has filed a civilian complaint is not satisfied with the Chief's final disciplinary decision or any matter relating to the Chief's handling of his or her complaint, he or she may request that the Chief Administrative Officer review the complaint, the findings of the **Board**, and the action of the Chief. The complainant must make such a request in writing within thirty (30) calendar days (inclusive of weekends and holidays) of receipt of the Chief's letter notifying the complainant of his or her final disciplinary decision related to the complaint. Upon completion of his or her review, the Chief Administrative Officer shall take any action necessary, including overriding the decision of the Chief regarding disciplinary action, to complete the disposition of the complaint. The Chief Administrative Officer shall notify in writing, by certified mail, the complainant, the individual against whom the complaint was filed, the Chief, and the Executive Director of the CPOA, the results of his or her review and any action taken.

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9. **Maintenance of Documentation Regarding Findings.** The **Board's** final findings shall be placed with the Chief's findings and discipline imposed in the Internal Affairs Unit Discipline Status Sheet in the officer's Retention File, in IA Pro, and in any other electronic track system in which APD maintains records related to findings and discipline.

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10. **Disciplinary Recommendations.**

A. The **Board** may, in its discretion, recommend officer discipline from the Chart of Sanctions for investigations that result in sustained civilian police complaints. The **Board** also may recommend discipline based on any findings that result from review of internal affairs investigations, including but not limited to officer involved shootings.

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B. Imposing discipline the **Board** recommends is at the discretion of the Chief, but if the Chief does not follow the **Board's** disciplinary recommendation, by Ordinance, the Chief is supposed to respond in writing, within thirty (30) days of the department's final disciplinary decision, with a detailed explanation of the reason as to why the recommended discipline was not imposed. By Ordinance the Chief is supposed to identify the specific findings of the Board with which the Chief disagrees, or any other basis upon which the Chief declined the Board's disciplinary recommendation.

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11. **Audits.** The **Board** may, by majority vote, perform an annual audit, or direct that an audit be performed, on a random sample of up to 10% of individual civilian police complaint investigations involving allegations of use of force. In exceptional circumstances, for the purpose of promoting an enhanced measure of quality assurance in the most challenging cases, the **Board** may, by a vote of two-thirds of the members of the **Board**, perform an audit, or direct that an audit be

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performed, on any individual civilian police complaint investigation by the CPOA.

12. **Policy Recommendations.**

A. The Executive Director will provide quarterly reports updating the **Board** on the results of the CPOA's long-term planning process. Through the long-term planning process, the CPOA will identify major problems or trends, evaluate the efficacy of existing law enforcement practices in dealing with the same, analyze and evaluate data (including APD raw data), innovative practices, national trends, and police best practices, and establish a program of resulting policy suggestions and studies each year. The **Board** shall review and analyze policy suggestions, analysis, studies, and trend data the CPOA has collected or developed supplemented by such additional data and information it obtains directly or instructs the CPOA to collect.

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B. By majority vote, the **Board** may recommend policies related to programs and procedures or other matters relating to APD. These policy recommendations shall be supported by specific, written findings of the Board in support of the proposed policies.

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C. APD shall provide all policy proposals by the APD Policy and Procedures Review Board to the Board for its review, comment, and recommendations prior to final adoption.

D. By Ordinance, the Chief is supposed to respond to any policy recommendations from the CPOA as set forth in paragraphs B and C above in writing within forty-five (45) days of final action on a policy by APD. By Ordinance, in this APD is supposed indicate whether Board's policy recommendations will be followed through standing operating procedures, or specifically explain any reasons why such policy recommendations will not be followed or were not adopted.

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E. The Board must dedicate a majority (more than 50%) of its time to policy recommendations.

13. **Monitoring.**

A. The Executive Director shall monitor and periodically report to the **Board** on claims of excessive force. This shall include reporting to the **Board** on APD-related settlements in excess of \$25,000 at the regularly scheduled **Board** meeting following each such settlement.

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B. The CPOA shall track allegations regarding misconduct involving individuals who are known to be homeless or have a mental illness, even if the complainant does not specifically label the misconduct as such.

C. The CPOA shall develop a system to ensure that allegations by a judicial officer of officer misconduct made during a civil or criminal proceeding are identified and assessed for further investigation. Any decision to decline investigation shall be documented.

D. The CPOA shall conduct an annual review of APD's policies against retaliation and the implementation of those policies. This review shall consider the alleged incidents of retaliation that occurred or were investigated during the reporting period, the discipline imposed for retaliation, and supervisors' performance in addressing and preventing retaliation. The CPOA shall coordinate this review with Internal Affairs, which is responsible for reviewing the same issues. Following such review, the City shall modify its policy and practice, as necessary, to protect individuals, including other APD personnel, from retaliation for reporting misconduct.

14. **Reporting.**

A. The Executive Director shall submit to the Board draft semi-annual written reports for the Board's approval for submission to the Mayor and City Council. The reports shall include, but need not be limited to:

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1. Number and type of complaints received and considered, including any dispositions by the Executive Director, the agency, and the Chief;
2. Demographic category of complainants;
3. Number and type of serious force incidents received and considered, including any dispositions by the Executive Director, the agency, and the Chief;
4. Number of officer-involved shootings received and considered, including any dispositions by the Executive Director, the agency, and the Chief;
5. Policy changes submitted by APD, including any dispositions by the Executive Director, the agency, and the Chief;
6. Policy changes recommended by the agency, including any dispositions by the Chief;
7. Public outreach efforts undertaken by the agency and/or Executive Director;.
8. Training progress for each Board member; and
9. Trends or issues with APD's use of force, policies, or training.

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B. The Executive Director shall provide a quarterly oral report to the City Council at its regular or special meeting. This oral report shall at a minimum address community outreach efforts, agency progress and initiatives, together with any of the agency's issues or concerns.

ARTICLE VI – BUDGET

1. Budget. CPOA staff shall present to the Board a budget at such a time as to provide the Board sufficient time to recommend and propose the CPOA budget to the Mayor and City Council during the City's annual budget process. The proposed budget shall provide for sufficient funding to carry out the powers and duties set forth in the Police Oversight Ordinance, including the funding for staff and all necessary operating expenses.

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ARTICLE VII – CONFIDENTIALITY AND ACCESS TO INVESTIGATION MATERIALS

1. Board Hearings.

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A. The Board hearing process shall be open to the public to the extent legally possible so that it does not conflict with state or federal law.

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B. The CPOA's attorney may designate details of investigations privileged or confidential when the law so requires.

C. Compelled statements given to the Executive Director or a designated independent investigator will not be made public.

D. The Executive Director may summarize conclusions reached from a compelled statement for the report to the Board and the Chief, and in the public record letter sent to the complainant.

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E. Nothing in these policies and procedures or the Police Oversight Ordinance affects the APD's ability to use a compelled statement in a disciplinary proceeding.

2. **Board Access to Investigation Materials.**

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The Board shall have reasonable access to the following documents and information:

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A. Redacted personnel records for APD personnel, including those of the Internal Affairs Unit, shall be made available to the Board on demand.

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B. Information that could be construed to be covered by *Garrity v. New Jersey*, 385 U.S. 493, 500 (1967) will be made available to the Board on application submitted in writing pursuant to a majority vote of the Board. Where the Board votes to review such material, it shall do so only in a closed session to the extent permitted under the New Mexico Open Meetings Act, NMSA 1978, § 10-15-1(H)(2). The Board shall only summarize conclusions reached after a review of a Garrity material, but shall not disclose the statement.

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C. The Board shall maintain the confidentiality of any *Garrity* material or records that are made confidential by law. The Board is subject to the same penalties as the custodian of those records for violating confidentiality requirements. In addition to any other penalty, any Board member or other person who violates his or her confidentiality obligations shall be removed from the Board and shall be subject to prosecution for a misdemeanor subject to the penalty provisions set forth in § 1-1-99.

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APPENDIX A - Form Administrative Subpoena

CITY OF ALBUQUERQUE
Albuquerque Civilian Police Oversight Agency

ADMINISTRATIVE SUBPOENA

SUBPOENA FOR

- APPEARANCE OF PERSON FOR**
- INVESTIGATIVE INTERVIEW**
- HEARING BEFORE THE CIVILIAN POLICE OVERSIGHT BOARD**
- SUBPOENA FOR DOCUMENTS OR OBJECTS**
- INSPECTION OF PREMISES**

TO: Name of Person _____
Address _____
Address _____

YOU ARE HEREBY COMMANDED TO APPEAR as follows:

Place: Albuquerque Civilian Police Oversight Agency
600 2nd STREET NW, SUITE 813, Plaza del Sol Building
ALBUQUERQUE, NEW MEXICO 87102

Date: _____ Time: _____

to: be interviewed by an Agency Investigator;
 permit inspection of the following described documents or objects:

permit the inspection of the premises located at:

_____ (address)

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

The aforementioned testimony and/or documents are related to the following issue(s) in the case as follows:

general relevancy to an issue in the case of the testimony or document(s) sought

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment.

Dated this _____ day of _____, 201_____.

_____, Chairperson
Board of the Albuquerque Civilian Police Oversight
Agency

Attested by:

Clerk of the City of Albuquerque.

RETURN FOR COMPLETION BY SHERIFF OR DEPUTY

I certify that on the _____ day of _____, 2019, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the subpoena, a fee of \$ _____ (insert the amount of fee tendered or, if no fee is tendered, "none").

Deputy Sheriff

RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the _____ day of _____, 2019, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the subpoena and a fee of \$ _____ (insert the amount of fee tendered or, if no fee is tendered, "none").

Person making service

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2019.

Judge, notary or other officer authorized to administer oaths

THIS SUBPOENA issued by or at request of:
Albuquerque Civilian Police Oversight Agency
600 2nd Street, NW, Suite 813
Albuquerque, New Mexico 87103
(505) 924-3770

CERTIFICATE OF SERVICE BY CIVILIAN POLICE OVERSIGHT AGENCY

I certify that I caused a copy of this subpoena to be served on the following by mail on _____, 2019:

1) The individual or entity that is the subject of subpoenaed records, identified as follows:

; and

2) The Albuquerque City Attorney, One Civic Plaza, 4th Floor, Room 4072, Albuquerque, NM 87102

NAME:
TITLE:
Albuquerque Civilian Police Oversight Agency
600 2nd Street, NW, Suite 813
Albuquerque, New Mexico 87103
(505) 924-3770

TO BE PRINTED ON EACH ADMINISTRATIVE SUBPOENA

1. This administrative subpoena must be served on each party in the manner provided by City of Albuquerque Ordinance, § 9-4-1-5(J).
2. A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for an interview, or hearing before the Civilian Police Oversight Board.

PROTECTION OF PERSONS SUBJECT TO ADMINISTRATIVE SUBPOENAS

The agency for the issuance and service of an administrative subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that administrative subpoena.

A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for an interview or hearing.

A person commanded to produce and permit inspection and copying may, within fourteen (14) days after service of the administrative subpoena, serve upon the agency designated in the administrative subpoena, as well as the Albuquerque City Attorney, and the Civilian Police Oversight Agency Board written objections specifying the bases for the objections to the inspection or copying of any or all of the designated materials or of the premises or within fourteen (14) days after service of the subpoena may challenge the administrative subpoena in a district court of the county where he or she resides.

For five (5) days after receipt of a timely submitted objection to an administrative subpoena, the Civilian Police Oversight Agency will take no action to enforce the administrative subpoena or initiate prosecution of the person or entity to whom the administrative subpoena is directed. During this five-day period, the Civilian Police Oversight Agency will consider the grounds for the objection and may attempt to resolve the objection through negotiation with the person or entity to whom the administrative subpoena is directed. The five-day period may be extended by the Civilian Police Oversight Agency to allow completion of negotiations. The Civilian Police Oversight Agency will provide written notice of the extension to the person or entity to whom the administrative subpoena is directed. Such notice will specify the date on which the negotiation period will end. Negotiations may include such matters as the scope of the administrative subpoena and the time, place, and manner of response thereto.

If a challenge is served, or a lawsuit is filed, and served on the persons identified on the administrative subpoena, the agency serving the administrative subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena challenge was filed. If a challenge has been made, the agency serving the subpoena may, upon notice to the person commanded to produce, file a legal action for an order to compel the production. An order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

On timely challenge, Board of the Civilian Police Oversight Agency or a court where the challenge is lodged shall quash or modify the administrative subpoena if it:

- (1) fails to allow reasonable time for compliance,
- (2) requires a person to travel to a place more than one hundred miles from the place where that person resides, is employed or regularly transacts business in person, except as provided below, such a person may in order to attend a hearing be commanded to travel from any such place within the state in which the hearing is held, or
- (3) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (4) subjects a person to undue burden.

If an administrative subpoena:

(1) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(2) requires a person to incur substantial expense to travel, the Civilian Police Oversight Agency Board or court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the agency on whose behalf the administrative subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the administrative subpoena is addressed will be reasonably compensated, the Civilian Police Oversight Agency Board or the court may order appearance or production only upon specified conditions.

In the case of a refusal to obey an administrative subpoena issued to any person, the Executive Director may make application to a district court in the state having jurisdiction to order the witness to appear before the Civilian Police Oversight Agency Board and to produce evidence if so ordered, or to give testimony touching on the matter(s) in question.

Any summoned person may, at his or her own expense, be represented by legal counsel during all Civilian Police Oversight Agency proceedings.

DUTIES IN RESPONDING TO ADMINISTRATIVE SUBPOENA

(1) A person responding to an administrative subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to an administrative subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(3) A person commanded to produce documents or material or to permit the inspection of premises shall not produce the documents or materials or permit the inspection of the premises if a written challenge is served or a lawsuit is filed until a court order or Board decision requires their production or inspection

[Pursuant to Ordinance, § 9-4-1-5(J).]

Proposed Changes:

The Policy Subcommittee met on June 6, 2019 at our regularly scheduled date and time and reviewed the changes our counsel proposes based on the amended ordinance. Essentially, we recommend accepting all changes recommended by counsel because they are language changes required by the new ordinance. Notwithstanding, we bring one change to the Board's attention below. Additionally, the discussion resulted in a few other items to consider, largely connected to the ordinance with a couple of exceptions, which are also contained below.

On page 4

Delete: A subcommittee may be designated to review civilian complaints and related matters. Any subcommittee designated responsibility for reviewing civilian police complaints may recommend that specific complaint cases be placed as a consent agenda item for a POB meeting. At such meeting, any Board member may request that complaint case on the consent agenda be removed and placed instead on the non-consent agenda.

On page 7

(D) Include City Legal in list of people to which the Board sends its annual performance evaluation of Executive Director.

On page 8

Break item B up for clarity so as to read:

(B) Neither the Board nor any of its members shall file or initiate a complaint on behalf of a member of the public.

(C) Any Board member who files or otherwise initiates a complaint shall recuse from taking any action on the complaint, including evaluating the complaint and voting on its disposition.

Relist subsequent items alphabetically.

Re pages 14 & 17:

Receive information from counsel on what "improper" as distinguished from proper *ex-parte* communications are. Also have counsel incorporate a definition of "conflict of interest" for incorporation.

**** Counsel provides the following for incorporation:**

For purposes of these Policies and Procedures, "ex parte communication" is defined as a substantive communication (whether written or oral), outside of the public meeting process

outlined herein, between a member or members of the Board and any member of the public regarding the merits of a civilian complaint or the proposed findings and recommendations under review by the Board. Communications between a member or members of the Board and the staff or attorneys of the CPOA shall not be considered ex parte communications provided that such communications are not relied upon to make factual determinations by a member or members of the Board.

Conflicts of Interest. A Board member shall withdraw from any proceeding in which he or she has a direct or indirect conflict of interest. For purposes of these Policies and Procedures, “conflict of interest” shall include any proceeding or official act in which the Board member has a direct personal financial interest, any proceeding or official act affecting a business in which the Board member has a financial interest, and any proceeding or official act in which he or she does not believe he or she can provide a fair and impartial hearing because of personal opinions or biases that would prevent the Board member from acting fairly and impartially. Board members should err on the side of caution and withdraw from any proceeding in which there is an appearance of a conflict of interest.

Subpoena: make correction identified by City Attorney Steve Aguilar.

General: Allow counsel, in completing this document, to correct newly identify typos, errors, misspellings, and poor wording.

Recommendation from CPOA: Add the following language: “The Board may invite representatives of the City, other government bodies, or the public to speak on matters relevant to the Board's work. However, pursuant to Ordinance § 2-6-1-6, the Board shall not organize, sponsor, advertise, or host any political forum for candidates running for elective office. Nothing in this section, however, is intended to restrict any member of the Board from engaging in political activities outside of the course and scope of his or her duties as a member of the Board.”

Recommendation from Chantal:

Add a section requiring the Board to vote on a recommendation for City Council regarding the reappointment of existing members to additional terms. Section shall also require the Board to send notice of its recommendation via a letter to they City Council and other parties.

Recommendation from Chelsea:

Add page numbers.

Last question for Board posed after subcommittee meeting:

Should these changes be submitted to City Council under the following provision (to err on the side of caution since we are arguably changing the rules governing civilian complaint procedures, it may want to get City Council's ok):

"The Board shall submit rules and regulations governing civilian complaint procedures to the City Council for approval, including rules and regulations relative to time limits, notice and other measures to insure impartial review of civilians' complaints against members of the police department." 9-4-1-8(A).