

CIVILIAN POLICE OVERSIGHT AGENCY BOARD

Thursday, May 21, 2020 – 5:00 PM
Video Conference

Members Present:

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

Members Absent:

Eric Olivas
Leonard Waites

Others Present:

Edward Harness, CPOA
Katrina Sigala, CPOA
Valerie Barela, CPOA
Tina Gooch, Atty
Esteban Aguilar Jr, City Atty
Robyn Rose, Asst. City Atty
Deputy Chief Smathers, APD

Attendance: In response to the Governor's declaration of a Public Health Emergency and ban on large public gatherings, the Civilian Police Oversight (CPOA) Board meeting on Thursday, May 21, 2020 at 5:00 pm will be held via Zoom video conference.

Viewing: Members of the public will have the ability to view the meeting through GOVTV on Comcast Channel 16, or to stream live on the GOVTV website at: <https://www.cabq.gov/culturalservices/govtv>, or on YouTube at: https://www.cabq.gov/cpoa/events/copy4_of_cpoa-board-meeting. (Please note that the link for YouTube has not yet been generated, however, the link could easily be found on the link provided above prior to the start of the meeting). The GOVTV live stream can be accessed at these addresses from most smartphones, tablets, or computers.

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

Public Comment: The agenda for the meeting will be posted on the CPOA website by 5:00 pm, Monday, May 18, 2020 at www.cabq.gov/cpoa.

The CPOA Board will take general public comment and comment on the meeting's specific agenda items in written form via email through 4:00 pm on Thursday, May 21, 2020. Submit your public comments to: POB@cabq.gov. These comments will be distributed to all CPOA Board members for review.

Meeting Minutes

- I. **Welcome and call to order.** Chair Dr. Kass called to order the regular meeting of the Civilian Police Oversight Agency Board at 5:23 pm.
- II. **Mission Statement** – Chair Dr. Kass read the Civilian Police Oversight Agency Board’s mission statement.
- III. **Approval of the Agenda**
 - a. **Motion.** Motion by Chair Dr. Kass to amend agenda item VII.b to replace the presenter as Chair Dr. Kass. Motion passed.
 - b. **Motion.** Motion by Chair Dr. Kass to defer agenda item VIII.e to the next scheduled Board meeting. Motion passed.
 - c. **Motion.** Motion by Chair Dr. Kass to approve the agenda as amended. Roll call vote taken. Motion passed.
- IV. **Public Comment**
 - a. None
- V. **Review and Approval of Minutes.** For more information about minutes from prior CPOA Board meetings, please visit our website here:
<http://www.cabq.gov/cpoa/police-oversight-board/pob-agenda-meeting-minutes>
 - a. **Review and Approval of Minutes from April 9, 2020**
 1. Copies of the draft minutes from the April 9, 2020 Civilian Police Oversight Agency Board meeting were electronically distributed to each Member in their packets.
 2. **Motion.** Motion by Member Mitchell to approve the minutes as drafted. Roll call vote taken. Motion passed.
- VI. **Reports from City Staff**
 - a. **City Council**
 1. There was no report.
 - b. **Mayor’s Office**
 1. City Attorney – Esteban Aguilar Jr. presented his report.
 - c. **City Attorney**
 1. Assistant City Attorney – Robyn Rose presented her report.
 - d. **CPC**
 1. There was no report.
 - e. **APOA**
 1. There was no report.

- f. **APD**
 - 1. **Report on Officer Wellness**
 - i. Deputy Chief Michael Smathers with APD Administrative Support gave a report on APD staff health and wellness during Covid-19.
 - 2. APD Internal Affairs-Professional Standards submitted Statistical Data reports for April 2020. (See attached)
 - 3. APD Internal Affairs-Force Division submitted Statistical Data reports for the month of April 2020. (See attached)
- g. **Public Safety Committee**
 - 1. There was no report.
- h. **CPOA – Edward Harness, Executive Director**
 - 1. Edward Harness presented his report.

VII. Reports from Subcommittees

- a. **Community Outreach Subcommittee – Chantal Galloway**
 - 1. Met April 28, 2020 at 3:00 pm (video conference)
 - 2. Next meeting May 26, 2020 at 3:00 pm
- b. **Policy and Procedure Review Subcommittee – Dr. William Kass**
 - 1. Met May 7, 2020 at 4:30 pm (video conference)
 - 2. APD SOP's reviewed
 - i. Chair Dr. Kass reported on recent SOP's reviewed and the Review of SOP's will start at OPA.
 - 3. Next meeting June 4, 2020 at 4:30 pm
- c. **Case Review Subcommittee – Chantal Galloway**
 - 1. Met April 28, 2020 at 4:30 pm (video conference)
 - 2. Met May 12, 2020 at 4:30 pm (video conference)
 - i. **Review of April 2020 Audit Cases**
 012-20 025-20 175-19 238-19
 - A. Member Galloway reported on need to utilize technology to review cases and the issue will be discussed at the next CRC meeting.
 - 3. Next meeting May 26, 2020 at 4:30 pm
- d. **Personnel Subcommittee – Chair Dr. Kass**
 - 1. Met April 30, 2020 at 8:30 am (video conference)
 - 2. Met May 11, 2020 at 8:30 am (video conference)
 - 3. Next meeting May 28, 2020 at 8:30 am

VIII. Discussion and Possible Action

- a. **Proposal and discussion regarding meeting CPOA Board training requirements**
 - 1. Chair Dr. Kass discussed the item with the Board.

b. Update of Policy and Procedures: Amendment to implement Case Review of Audit Process

1. Motion. Motion by Member Galloway to amend the Case Review Audit Process as written:

In the months of January, April, July and October, members of the CRC will:

- 1. Utilize a randomizer tool to select up to 10% of investigations conducted by the agency in the previous quarter, and*
- 2. Review the investigative file and all pertinent evidence and report to the full Board their findings no later than the next quarterly interval.*

The Committee will present their findings and any recommendations or concerns at the next regularly scheduled meeting of the full Board for approval of the quarterly audit or for further action deemed necessary.

It is important to keep in mind that the complainants' rights remain unaltered under this proposed new functionality of CRC. Should the complainant believe that the findings in their case were in error and their reasoning fits one of the criteria for an appeal, the Board may grant that appeal. A notice of a complainant's request for an appeal will be provided by the Executive Director and relevant information uploaded to SharePoint in advance of the meeting at which the Board would vote to grant or deny the appeal. It will be the responsibility of individual Board members to review that information and be prepared to decide at the meeting where a Request for Appeal is to be heard.

Additionally, a more thorough review of the case file and evidence, if found to have contained errors, will provide the Agency and Director the opportunity to review and revamp processes as needed).

Roll call vote taken. Motion passed.

c. CPC Interactions

1. Member Nixon provided an update on feedback received from Community Policing Council (CPC) Chairs and will continue the dialogue with the CPC's.

d. Board Conduct and Ethics Policy

1. **Motion.** Motion by member Mitchell to table Board Conduct and Ethics Policy to the next Board meeting. Roll call vote taken. Motion passed.

e. Executive Director Evaluation

1. Agenda item VIII.e was tabled for the next scheduled Board meeting.

f. 2019 Semi-Annual Report January – June

1. The Board will review the 2019 Semi-Annual Report January – June and will be placed on next month’s agenda.

IX. Monthly Case Review:

a. Administratively Closed Cases

064-20 078-20 093-20 098-20 102-20

106-20 107-20 111-20 121-20 126-20

127-20

1. **Motion.** Motion by Chair Dr. Kass to accept Administratively Closed Cases as presented. Roll call vote taken. Motion passed.

b. Unfounded and Exonerated

039-20

1. **Motion.** Motion by Member Mitchell to accept Unfounded and Exonerated Case 039-20. Roll call vote taken. Motion passed.

c. Exonerated

061-20

1. **Motion.** Motion by Chair Dr. Kass to accept Exonerated Case 061-20. Roll call vote taken. Motion passed.

X. Review of Appeal:

046-20

- a. **Motion.** Motion by Member Mitchell to grant the appeal. Roll call vote taken. Motion passed.

XI. Non-Concurrence Cases:

122-18 144-19

XII. Serious Use of Force Cases/OIS

a. Pending non-disclosure agreement

1. Director Harness briefed the Board on the status of the pending non-disclosure agreement issue required by City Legal.
2. Chair Dr. Kass requests the Board’s Legal Counsel to pursue additional information on the pending non-disclosure agreement.

XIII. Other Business

- a. Member Armijo-Prewitt recommended to place the CPOA Complaint Process on the next Board Agenda.

XIV. Adjournment

- a. A motion was made by Chair Dr. Kass to adjourn the meeting. The meeting adjourned at 8:05 pm.

APPROVED:

DocuSigned by:
Dr. William J. Kass
D3E905C9AAED483...
Dr. William Kass, ~~Chair~~
Civilian Police Oversight Agency

June 11, 2020
Date

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

Minutes drafted and submitted by:
Valerie Barela, Administrative Assistant

Attachments

POLICE OVERSIGHT BOARD

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

APD 911 Communications Center
Dispatched calls for Service for **APRIL 2020**:
37,775 (DECREASE from MARCH (2,608))

INTERNAL CASES FOR THE MONTH OF APRIL 2020

Total Internal Cases Completed in the month of APRIL

5 completed cases (sent out to the area command)

1. IA Cases opened in the month of **APRIL 2020**: 4
 2. Pending IA Cases for the month of **APRIL 2020**: 4
 3. Internal Cases Mediated: 0
-

DISCIPLINE IMPOSED FOR INTERNAL CLOSED CASES IN APRIL 2020

5: Conduct—Written reprimand/Termination

3: Procedure—Suspension/Written reprimand

1: Custody of Prisoners-Suspension

EIRS FOR APRIL 2020: 129 alerts distributed (Overall and Incident type alerts)

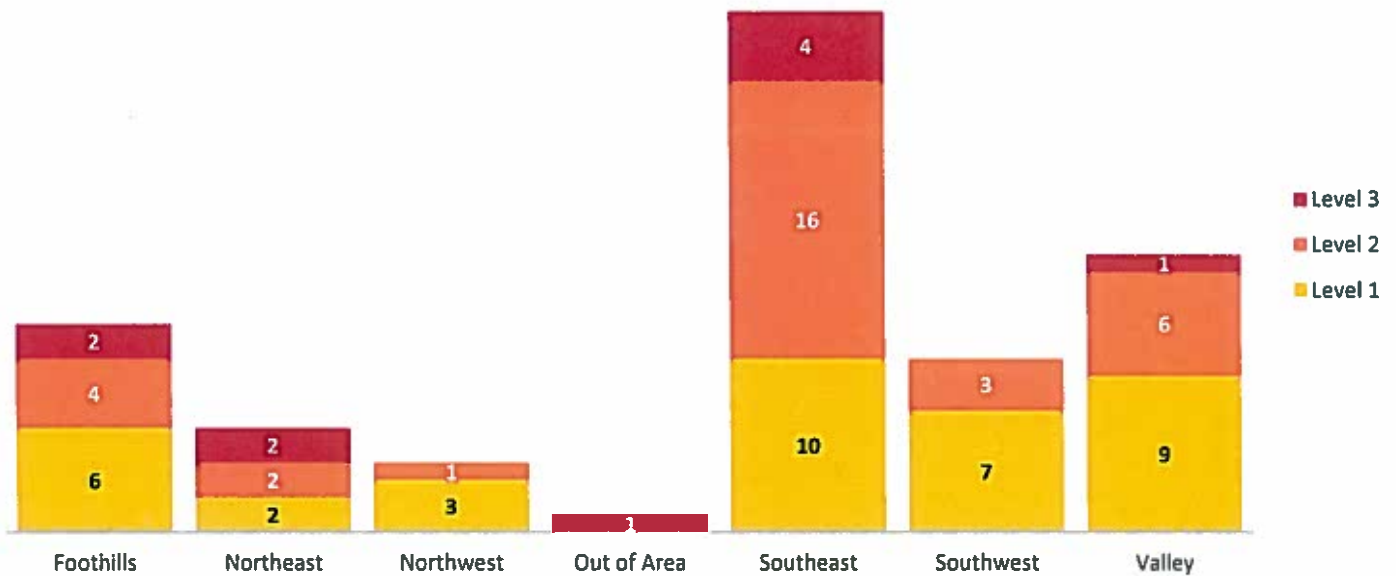
Civilian Police Oversight Agency Board
INTERNAL AFFAIRS FORCE DIVISION
STATISTICAL DATA FOR THE MONTH OF APRIL 2020

INCIDENT AREA COMMAND

Area Command	Level 1	Level 2	Level 3	Grand Total
Foothills	6	4	2	12
Northeast	2	2	2	6
Northwest	3	1		4
Out of Area			1	1
Southeast	10	16	4	30
Southwest	7	3		10
Valley	9	6	1	16
Grand Total	37	32	10	79

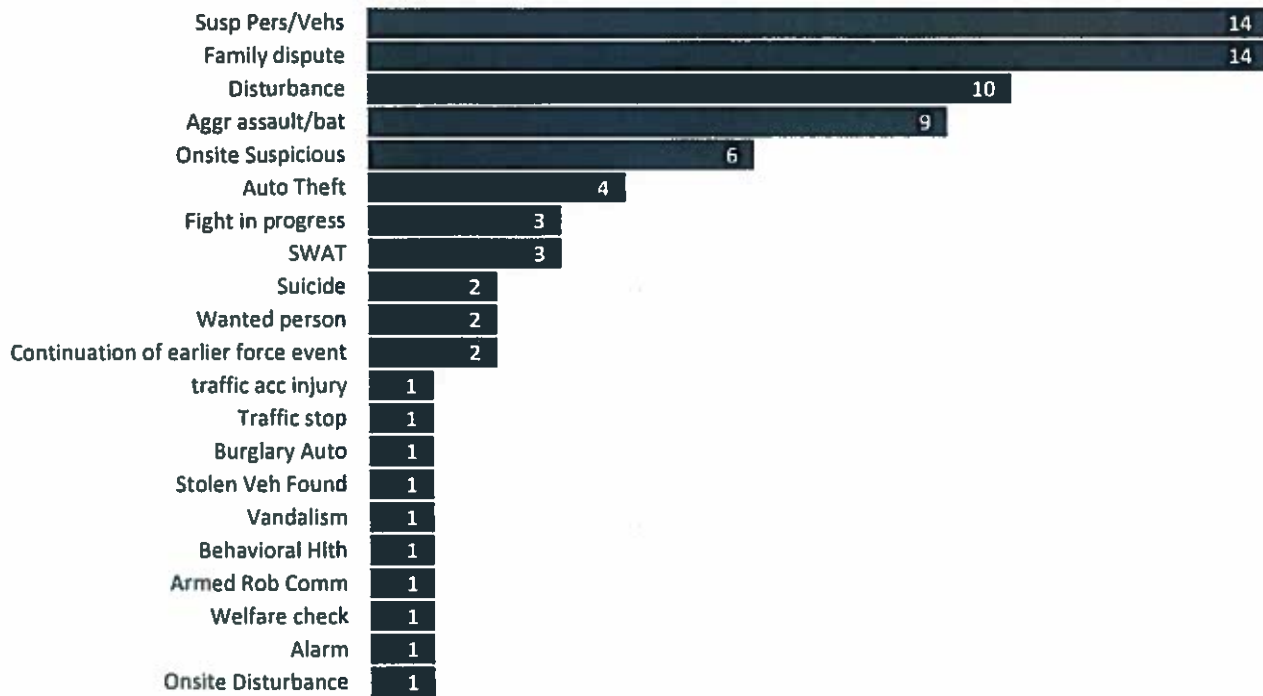
Force cases are now categorized by three levels. If a case involves multiple applications of force, it is categorized as the most serious at the case level. If one event involves both a force event and a tactical activation, the event is categorized as a force event for this report. These counts are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

April 2020 Force Events

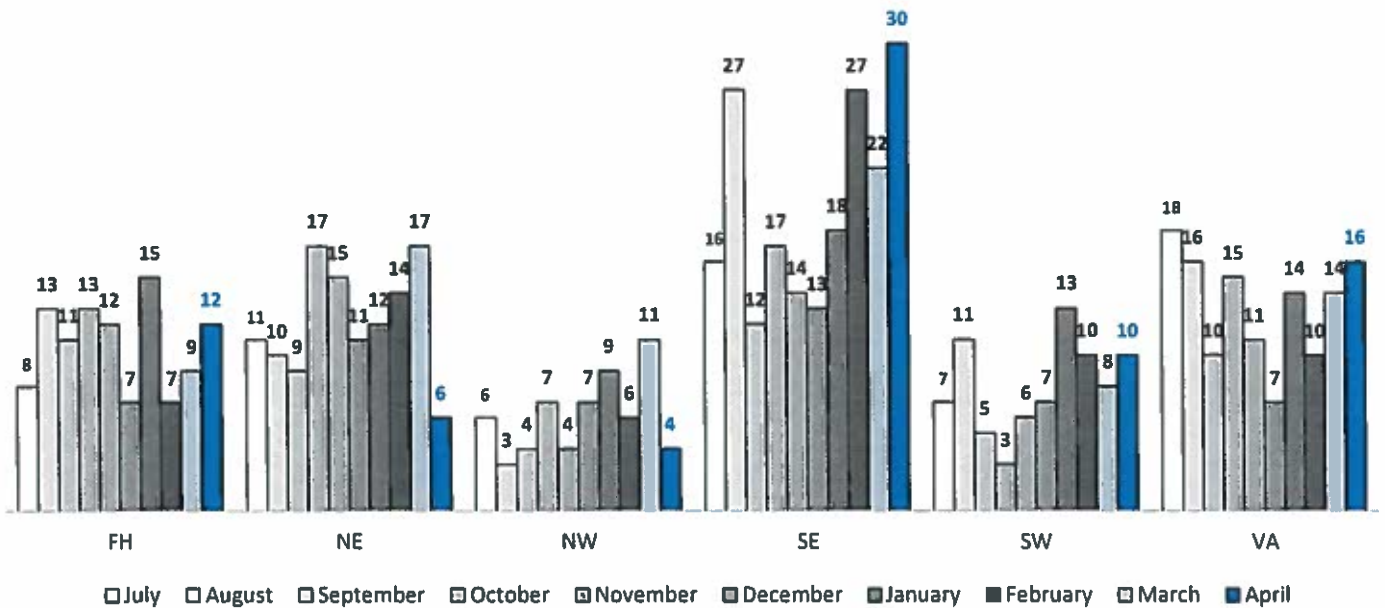


Civilian Police Oversight Agency Board
INTERNAL AFFAIRS FORCE DIVISION
STATISTICAL DATA FOR THE MONTH OF APRIL 2020

Call Types Associated with Force Events: April 2020



Ten Months of Force Data

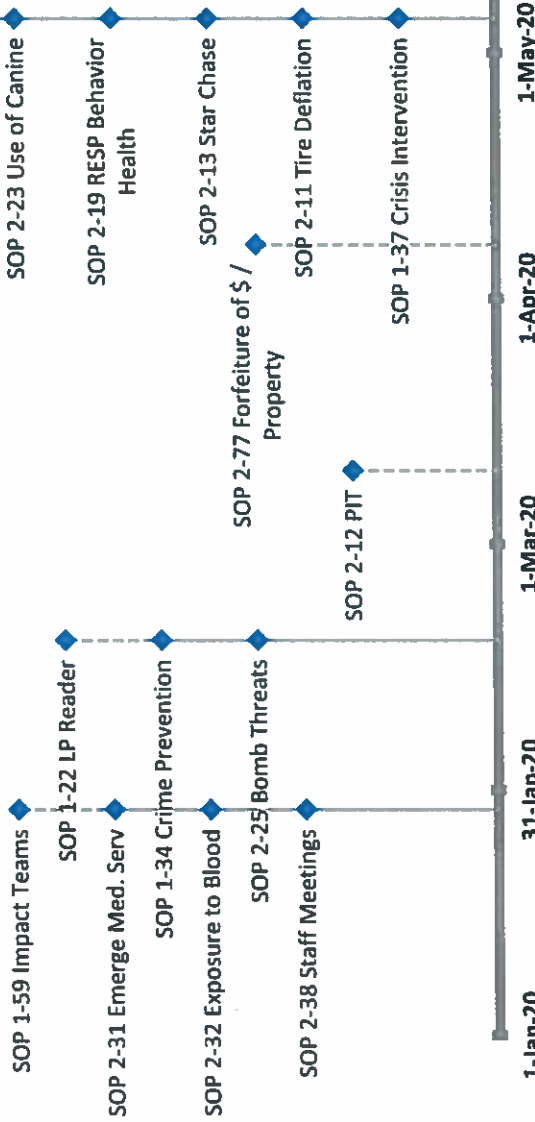


SOP List

Number	Title	Description	Prio rity	CASA published	OPA Review Date	OPA action	X	PPRB Review Date	Y	PPRB Action	Date Notice Sent/Rec	Comment Deadline
2-23	Use of canine unit	Department	1	10-Jan-19	06-May-20			18-Sep-18				
2-70	Execution of search warrants	Standardized			06-May-20			18-Sep-18				
2-13	Starhase Pursuit Management	Department		24-Sep-18	06-May-20			27-Jul-18				
1-37	Crisis Intervention Section	The Crisis	1	04-Apr-19	06-May-20							
2-11	Use of tire deflation device	Tire deflation		24-Jul-18	06-May-20							
2-19	Response to behavioral health issues	APD personnel	1	04-Apr-19	06-May-20							
2-77	Forfeiture of monies and property				08-Apr-20	Delete						
2-12	Pursuit Intervention Technique	Vehicle pursuits		23-Jul-18	11-Mar-20	15 day		13-May-20		tabled		
2-25	Bomb threats and bomb emergencies	Department	2	10-Jan-19	19-Feb-20	15 day	d a	13-May-20		passed		
1-34	Crime Prevention Section	The purpose of	3	10-Jan-18	19-Feb-20	15 day	is one	15-Apr-20		passed	30-Apr-20	30-May-20
1-22	Automated license plate reader program	The purpose of	2		19-Feb-20	Edit	Jan					
1-59	Impact Teams	The purpose of	1		29-Jan-20	15 day	out	15-Apr-20		passed	30-Apr-20	30-May-20
2-38	Daily Staffing and Briefings	The purpose of	3		29-Jan-20	15 day	out	15-Apr-20		tabled		
2-31	Emergency medical services	It is the purpose of	2	10-Jan-18	29-Jan-20	15 day	out	18-Mar-20		passed	15-Apr-20	15-May-20
2-32	Exposure to blood or bodily fluids	The purpose of	2		29-Jan-20	15 day	out	18-Mar-20		passed	15-Apr-20	15-May-20
2-82	Restraint and transportation of prisoners	It is the policy of	1	01-May-20	20-Nov-19		Opa	05-Feb-20		passed	12-Feb-20	26-Mar-20
1-65	Metropolitan court protection unit	The purpose of	3	11-Mar-20	20-Nov-19			15-Jan-20	main	passed	22-Jan-20	
3-30	Inspections Process	It is the policy of	F		20-Nov-19			15-Jan-20	main	tabled		
2-45	Pursuit by motor vehicle	The purpose of	2	30-Apr-20	06-Nov-19			05-Feb-20		passed	12-Feb-20	26-Mar-20
2-66	Victim and witness assistance			15-Jan-16	06-Nov-19	1st rev						
2-08	Use of on-body recording devices OBRD	It is the policy of	1	CASA	02-Jun-17	Review	Ther	15-Jan-20	main	passed	22-Jan-20	
2-64	identification-interviewing-and-detention of witness to crime				23-Oct-19	Postpone	Rem	13-May-20		passed		
2-68	Interviews and interrogations			27-Jan-16	09-Oct-19	Postpone		18-Mar-20		passed	15-Apr-20	15-May-20
2-67	Photo, array and field identifications	It is the policy of	1		09-Oct-19	Postpone		15-Jan-20	2-67	passed	22-Jan-20	

2020 OPA SOPs

— Duration
 — Completion
 — Today



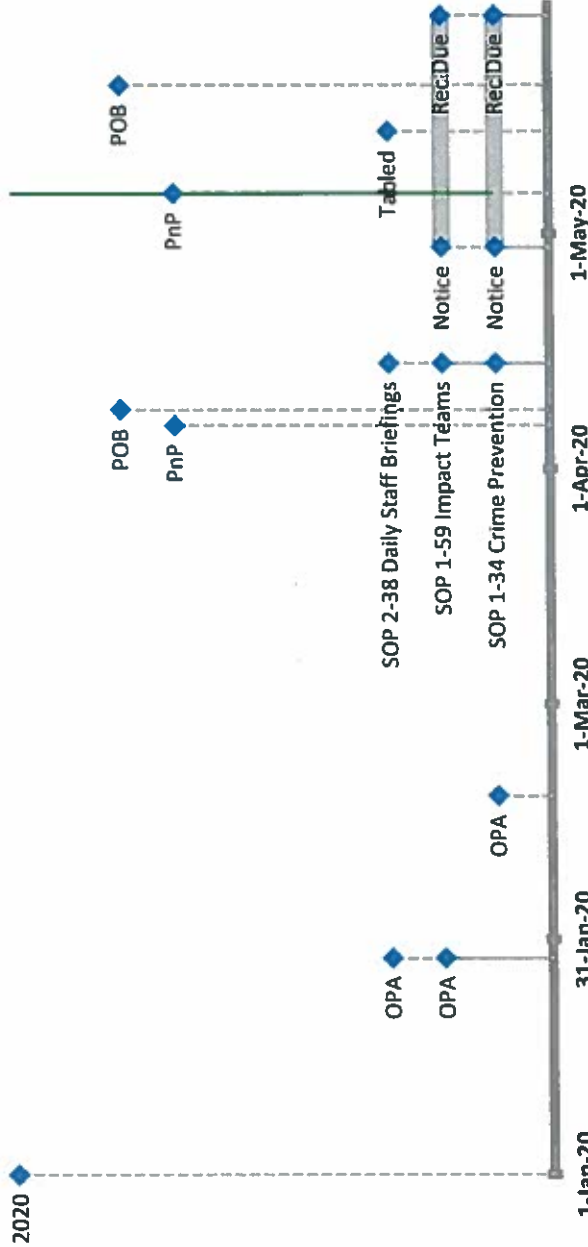
Title: 2020 OPA SOPs

Date	Task	Today:	Duration	% Done	Height	Completion	Axis	Label
29-Jan-20	SOP 1-59 Impact Teams				10	0	43859	SOP 1-59 Impact Teams
29-Jan-20	SOP 2-31 Emerge Med. Serv				8	0	43859	SOP 2-31 Emerge Med. Serv
29-Jan-20	SOP 2-32 Exposure to Blood				6	0	43859	SOP 2-32 Exposure to Blood
29-Jan-20	SOP 2-38 Staff Meetings				4	0	43859	SOP 2-38 Staff Meetings
19-Feb-20	SOP 1-22 LP Reader				9	0	43880	SOP 1-22 LP Reader
19-Feb-20	SOP 1-34 Crime Prevention				7	0	43880	SOP 1-34 Crime Prevention
19-Feb-20	SOP 2-25 Bomb Threats				5	0	43880	SOP 2-25 Bomb Threats
11-Mar-20	SOP 2-12 PIT				3	0	43901	SOP 2-12 PIT
08-Apr-20	SOP 2-77 Forfeiture of \$ / Property				5	0	43929	SOP 2-77 Forfeiture of \$ / Prop
06-May-20	SOP 1-37 Crisis Intervention				2	0	43957	SOP 1-37 Crisis Intervention
06-May-20	SOP 2-11 Tire Deflation				4	0	43957	SOP 2-11 Tire Deflation
06-May-20	SOP 2-13 Star Chase				6	0	43957	SOP 2-13 Star Chase
06-May-20	SOP 2-19 RESP Behavior Health				8	0	43957	SOP 2-19 RESP Behavior Health
06-May-20	SOP 2-23 Use of Canine				10	0	43957	SOP 2-23 Use of Canine
06-May-20	SOP 2-70 Exec Search Warrants				12	0	43957	SOP 2-70 Exec Search Warrant

Number	Title	Description	Priority	CASA published	OPA Review Date	OPA action	X	PPRB Review Date	Y	PPRB Action	Date Notice Sent/Rec	Comment Deadline
1-34	Crime Prevention Section	The purpose of	3	10-Jan-18	19-Feb-20	15 day	is one	15-Apr-20		passed		
1-59	Impact Teams	The purpose of	1		29-Jan-20	15 day	out	15-Apr-20		passed		
2-38	Daily Staffing and Briefings	The purpose of	3		29-Jan-20	15 day	out	15-Apr-20		tabled		
F-07	Accidental Discharge of Firearm		F					15-Apr-20		passed		
F-08	IA FD Misconduct Addendum							15-Apr-20		passed		
F-09	RAM Checklist							15-Apr-20		passed		
F-10	Pre-Planned Search Warrant Risk Assessment Matrix Log							15-Apr-20		passed		
F-11	Risk Assessment Matrix							15-Apr-20		passed		
2-31	Emergency medical services	It is the purpose	2	10-Jan-18	29-Jan-20	15 day	out	18-Mar-20		passed	15-Apr-20	15-May-20
2-32	Exposure to blood or bodily fluids	The purpose of	2		29-Jan-20	15 day	out	18-Mar-20		passed	15-Apr-20	15-May-20
2-68	Interviews and interrogations				09-Oct-19	Postpone		18-Mar-20		passed	15-Apr-20	15-May-20
1-87	Scientific Evidence Division		1		18-Apr-19			18-Mar-20		passed	15-Apr-20	15-May-20
2-33	Rights of onlookers	It is the policy of	1	13-Jan-16	27-Sep-18		PnP/	26-Feb-20	in and	tabled		
1-66	Missing Persons Unit	The purpose of	1					26-Feb-20	e fou	passed		
F-04	Digital Consent and Search Form		F					26-Feb-20		passed		
F-05	Confidential Informant Form		3					26-Feb-20		passed		
2-82	Restraint and transportation of prisoners	It is the policy of	1	01-May-20	20-Nov-19		Opa	05-Feb-20		passed	12-Feb-20	26-Mar-20
2-45	Pursuit by motor vehicle	The purpose of	2	30-Apr-20	06-Nov-19			05-Feb-20		passed	12-Feb-20	26-Mar-20
2-34	Notification of significant incidents	It is the policy of	3	10-Jan-18				05-Feb-20	onard	tabled		
4-21	Response to first amendment assemblies and demonstrations	Individuals have	1	CASA	07-Oct-17			05-Feb-20	Pres			
F-06	Law enforcement assisted diversion Form		F					05-Feb-20		passed		
1-65	Metropolitan court protection unit	The purpose of	3	11-Mar-20	20-Nov-19			15-Jan-20	main	passed	22-Jan-20	
3-30	Inspections Process	It is the policy of	F		20-Nov-19			15-Jan-20	main	tabled		
2-08	Use of on-body recording devices OBRD	It is the policy of	1	CASA	02-Jun-17	Review	Ther	15-Jan-20	main	passed	22-Jan-20	
2-67	Photo, array and field identifications	It is the policy of	1		09-Oct-19	Postpone		15-Jan-20	2-67	passed	22-Jan-20	
F-01	Admonishment Form		F					15-Jan-20		passed		
F-02	OPA Forms		F					15-Jan-20		passed		
F-03	Updated Revised Crime Lab Form		F					15-Jan-20		passed		

PPRB 15 April 2020 SOPs

— Duration
 — Completion
 — Today



Title: PPRB 15 April 2020 SOPs Today: 07-May-20

Date	Task	Duration	% Done	Height	Completion	Axis	Label
01-Jan-20		2020		10	0	43831	2020
21-May-20	POB			8	0	43972	POB
07-Apr-20	PnP			7	0	43928	PnP
07-May-20	PnP			7	0	43958	PnP
04-Jun-20	PnP			7	0	43986	PnP
19-Feb-20	OPA			1	0	43880	OPA
15-Apr-20	SOP 1-34 Crime Prevention			1	0	43936	SOP 1-34 Crime Prevention
30-Apr-20	Notice	30		1	0	43951	Notice
30-May-20	Rec Due			1	0	43981	Rec Due
29-Jan-20	OPA			2	0	43859	OPA
15-Apr-20	SOP 1-59 Impact Teams			2	0	43936	SOP 1-59 Impact Teams
30-Apr-20	Notice	30		2	0	43951	Notice
30-May-20	Rec Due			2	0	43981	Rec Due
29-Jan-20	OPA			3	0	43859	OPA
15-Apr-20	SOP 2-38 Daily Staff Briefings			3	0	43936	SOP 2-38 Daily Staff Briefings
15-May-20	Tabled			3	0	43966	Tabled
09-Apr-20	POB			8	0	43930	POB

CPOA Training Plan Proposal Outline

Purpose: Develop a comprehensive training plan that deals with required training of new board members, on-going training requirements and training developed for the purpose of meeting ordinance and CASA defined CPOA activities. Use this plan to inform prospective board candidates of the duties and responsibilities of board membership and provide members with the tools to perform those duties.

This plan will require coordination with and cooperation of the City Council, City Legal, the DOJ/IMT and APD.

- Start with Ordinance and CASA requirements – (Document: CPOA POB Mandates.docx)
- Create a document/briefing describing CPOA/POB duties for distribution to prospective board candidates.
- Develop a schedule for existing training classes and adapt to Zoom meeting methods when useful.

APD: Use-of-force, ride-alongs, firearms, CPA classes

CPOA Legal: Ordinance, OMA, IPRA, CASA, ...

CPOA special training: Robert's Rules, ...

- Modify training requirements based on reduced public face-to-face interactions. E.g. address the ride-along requirement, look for substitutes such as other APD departments that will give a Police Academy style class through remote connections.
- Schedule regular presentation at POB meetings on current subjects of interest. Zoom can now be used to connect to Albuquerque based speakers (City Legal, APD, ...) and remotely located experts (NACOLE experts, ...)
- Develop a training curriculum focused on CPOA core mission and oversight activities (case review, policy development, outreach)
 - CPOA Mission – review in facilitated session
 - Oversight Training: NACOLE webinars, DOJ sources, ...
 - Case Review: CPOA investigation process, POB case review process,
 - Policy development: APD policy process, POB policy review process, ..
 - Outreach: Community activities, APD interactions, ...

Web Resources:

NACOLE webinars

Daniels Fund Ethics Initiative videos available through power DMS

DOJ COPS webinars

Table 1 CPOA 2

Table 2 Member qualifications 2

Table 3 POB required training 3

Table 4 Board structure and subpoena power 3

Table 5 CPOA Director qualifications, selection, retention and evaluation 3

Table 6 Civilian complaint procedures 3

Table 7 Requests for hearing; Appeals of disciplinary decisions 4

Table 8 Reports 4

Table 9 Oversight Evaluation, Confidentiality 4

Table 10 CASA requirements 5

Table 11 Bard Duties Described in CPOA Policies and Procedures 7

Table 12 Conduct and ethics considerations 9

Table 1 CPOA

Source	Requirement	Who?	How?
9.4.1.4	Provide APD with policy guidance	POB, PnP, PPRB representative	Attend OPA, PPRB, review policies
9.4.1.4	Review and approve or amend findings and conclusions of all investigations completed by CPOA	POB	POB reads and reviews findings
9.4.1.4.C.1	Community outreach	POB, CPOA	Website, materials, community meetings
9.4.1.4.C.2	Promotion of accountability and communications between civilians and APD while improving community relations and enhancing public confidence	POB	POB meetings POB member C/E
9.4.1.4.C.3	Investigate civilian complaints, use-of-force, IA investigations	CPOA/POB	E. D. CPOA
9.4.1.4.C.3.d	Protect Garrity materials	CPOA / POB	CPOA /POB
9.4.1.4.C.3.f	Audits	POB	
9.4.1.4.C.3.g	Disciplinary recommendations	CPOA / POB	POB review
9.4.1.4.C.4	Reports to mayor and council	CPOA	E.D. Reports
9.4.1.4.C.5	CPOA Policy recommendations (more than 50%), draft policies rules and procedures assuring compliance	CPOA / POB	POB action, POB assessment

Table 2 Member qualifications

Source	Requirement	Who?	How ?
9.4.1.5.B	Member qualifications	Member	application
9.4.1.5.B.1	Not employed by law enforcement for 1 year	Member	application
9.4.1.5.B.2	Pass a background check	Member	application
9.4.1.5.B.3	No pattern of unsubstantiated complaints	Member	application
9.4.1.5.B.4	Demonstrated ability to engage in mature impartial decision making	Member	application
9.4.1.5.B.5	Commitment to transparency and impartial decision making	Member	application
9.4.1.5.B.6	Resident of Albuquerque	Member	application
9.4.1.5.E	Removal of members – for cause or for missing 3 consecutive meetings	POB	CPOA P/P

Table 3 POB required training

Source	Requirement	Who?	How?
9.4.1.5.F.1	Orientation and training	Member	P/P III.6.A.1
9.4.1.5.F.2	Required training	Member	P/P III.6.A.2-11
9.4.1.5.F.3	Required on-going training	Member	P/P III.6.B.8 P/P III.6.B.0 P/P III.6.C P/P III.6.D
9.4.1.5.F.4	Recommended Training. POB members are encouraged to attend conferences and workshops relating to police oversight, such as the annual NACOLE conference at city expense depending on budget availability.	Member	Discretion of member

Table 4 Board structure and subpoena power

Source	Requirement	Who?	How?
9.4.5.1.G	Chair election and tenure	POB	RRO
9.4.5.1.H	Subcommittees authorization and restriction	POB	RRO
9.4.5.1.I	Meetings requirements	POB	OMA, RRO
9.4.1.5.J	Subpoenas – Authority and regulations	CPOA / POB	NM Law

Table 5 CPOA Director qualifications, selection, retention and evaluation

Source	Requirement	Who	How
9.4.1.7	Hire director	Personnel Sub, POB	Develop process for Hiring director
9.4.1.7	Evaluate director	Personnel sub, POB	Develop process to evaluate director

Table 6 Civilian complaint procedures

Source	Requirement	Who	How?
9.4.1.8	Civilian complaint procedures	POB	CPOA Pol/Proc
9.4.1.8.A	POB writes rules governing complaint procedures	POB	CPOA Pol/Proc
9.4.1.8.C	POB reviews complaints and can take the following actions: 1. approve the findings and recommendations as proposed 2. approve other findings as determined by the POB and supported by the investigation file 3. defer action on the matter to allow further investigation or analysis by the Director Director prepares public record letter to complainant (and Chief)	POB	CPOA Pol/Proc

Table 7 Requests for hearing; Appeals of disciplinary decisions

Source	Requirement	Who	How
9.4.1.9.A	Hearing appeals filed within 30 days of receipt of letter <ol style="list-style-type: none"> 1. A policy was misapplied 2. Findings were arbitrary, capricious or constituted an abuse of discretion 3. Findings were not consistent with the record evidence 	CPOA / POB	Review, POB meeting
9.4.1.9.B	Appeals of Chief's disciplinary decision are made to CAO	CABQ	Appeal

Table 8 Reports

Source	Requirement	Who?	How?
9.4.1.10	Reports (CPOA)	CPOA	Submit report
9.4.1.10	policy recommendations (POB), public outreach, complaints	CPOA	Report content

Table 9 Oversight Evaluation, Confidentiality

Source	Requirement	Who?	How?
9.4.1.11	Evaluation – City council conducts independent evaluation of police oversight process	CABQ	Independent consultant
9.4.1.13	Confidentiality, open hearings of POB with exceptions regarding details of investigation, compelled statements, ... by advise of legal counsel subject to AG	Member	Follow CPOA Pol/Proc

Table 10 CASA requirements

Source	CASA requirement	Who?	How?
271	Responsibilities of the CPOA – meaningful independent review of all citizen complaints, serious uses of force and officer involved shootings by APD. The agency shall also review and recommend changes to APD policy and monitor long-term trends in APD's use-of-force.	CPOA	POB assessment
271	Review all citizen complaints, serious use-of-force and officer involved shootings	CPOA POB	POB assessment
271	Review and recommend changes to APD policy	CPOA POB	POB assessment
271	Monitor long-term trends in APD's use-of-force	CPOA	Reports
272	The City shall ensure that the agency remains accountable to, but independent from the Mayor, the City...	CABQ	CABQ budget
272	Accountability and independence of CPOA	CABQ, CPOA	Reports
273	The City shall ensure that the individuals appointed to serve on the agency are drawn from a broad cross-section of Albuquerque and have a demonstrated commitment to impartial, transparent, and objective adjudication of civilian complaints and effective and constitutional policing in Albuquerque	CABQ POB	POB assessment
273	Board is drawn from cross section of community	CABQ	appoint
273	Board has commitment to impartial, transparent and objective adjudication of complaints	POB	POB assessment
273	Board has commitment to effective and constitutional policing		POB assessment
274	Initial Training for CPOA Within six months of their appointment, the City shall provide 24 hours of training to each individual appointed to serve on the agency that covers, at a minimum, the following topics: a) this Agreement and the United States' Findings Letter of April 10, 2014; b) the City ordinance under which the agency is created; c) state and local laws regarding public meetings and the conduct of public officials; d) civil rights, including the Fourth Amendment right to be free from unreasonable searches and seizures, including unreasonable uses of force; e) all APD policies related to use of force, including policies related to APD's internal review of force incidents; and f) training provided to APD officers on use of force.	POB	CABQ provides
274	Receive Training – CASA, ordinance, OMA, c/e, 4 th amendment, UoF policies, APD training on UoF	POB	CPOA APD
275	On-going training for the CPOA. The City shall provide eight hours of training annually to those appointed to serve on the agency on any changes in law, policy, or training in the above areas, as well as developments in the implementation of this Agreement.	POB	CABQ provides

276	The City shall require those appointed to the agency to perform at least two ridealongs with APD officers every six months.	POB	POB assessment
277	The City shall provide the agency sufficient resources and support to assess and make recommendations regarding APD's civilian complaints, serious uses of force, and officer-involved shootings; and to review and make recommendations about changes to APD policy and long-term trends in APD's use of force.	CABQ	Budget
278	The City shall provide the agency a dedicated budget and grant the agency the authority to administer its budget in compliance with state and local laws. The agency shall have the authority to hire staff and retain independent legal counsel as necessary.	CABQ	Budget
279	Agency, executive director and staff	CPOA	E.D.
280	The Executive Director will receive all APD civilian complaints, reports of serious uses of force, and reports of officer-involved shootings. The Executive Director will review these materials and assign them for investigation or review to those on the investigative staff. The Executive Director will oversee, monitor, and review all such investigations or reviews and make findings for each. All findings will be forwarded to the agency through reports that will be made available to the public on the agency's website.	CPOA / POB	
281	Investigation of complaints	CPOA	E.D.
282	Access to information for investigations	APD	APD
283	The City shall provide reasonable access to APD premises, files, documents, reports, and other materials for inspection by those appointed to the agency, its investigative staff, and the Executive Director upon reasonable notice. The City shall grant the agency the authority to subpoena such documents and witnesses as may be necessary to carry out the agency functions identified in this Agreement.	CABQ	CPOA, POB review
284	The City, APD, and the agency shall develop protocols to ensure the confidentiality of internal investigation files and to ensure that materials protected from disclosure remain within the custody and control of APD at all times.	CPOA / POB	APD, CPOA
285	recommend discipline	CPOA	Invest. findings
286	document findings	APD IA	APD
287	appeal findings	CPOA	POB review
288	make policy recommendations	CPOA	POB / PnP
289	APD chief provides reasons for not following recommendations	APD	Chief
290	Regular public meetings	CPOA	Pol/Proc
291	Community outreach	CPOA	Pol/Proc
292	Semi-annual reports	CPOA	E. D.
293	Ordinance may not be interpreted in a manner contradicting CASA	CABQ	CABQ

Table 11 Bard Duties Described in CPOA Policies and Procedures

Source	Who	What	Comment
II.1	Board	Regular Meetings	Scheduled
II.2	Board	Special Meetings	Chair /POB Majority
II.3	Board	Emergency Meetings	Chair
II.4	Board	Open Meetings	Chair / POB
II.6	Chair	Public Comment	Rules prescribed by II.6
II.7	ED	Records Custodian	Maintain Record for IPRA
II.9	Board	Attend all meetings	Attend
III.1	Board	Election of Chairperson and Vice-Chairperson	First meeting in March, one year terms, no succession,
III.2.A.1	Chair	Call Board to Order	
III.2.A.2	Chair	Preserve order	
III.2.A.3	Chair	Prepare and disseminate agenda	
III.2.A.4	Chair	Decide questions of order	Appeal may be made to Board
III.2.A.5	Chair	Have right to speak	
III.2.A.6	Chair	Vote upon all questions	
III.2.A.7	Chair	Announce results of vote	
III.2.A.8	Chair	Appoint all subcommittees	Subject to approval of Board
III.2.A.9	Chair	Sign all official documents	On behalf of Board
III.2.A.10	Chair	Receive all formal communications	On behalf of Board
III.2.A.11	Chair	Refer issues to subcommittee	
III.2.A.12	Chair	Sign all agreements for professional services	Board first authorizes agreement
III.2.B	Chair	Designates Board member to serve on APD policy committee	Approval by Board?
III.2.C	Vice-Chair	Assumes responsibilities of Chair in his/her absence	
III.3.		Sub-committees	
III.3.A	Board	Create subcommittees as necessary, limited to less than Board quorum	Chair appoints, Board approves?
III.3.B	Sub-comm	Conducts business	With quorum, may have substitutes
III.3.C	Sub-comm	Elect chairperson	sub-comm elects at March Board meeting
III.3.D	Sub-comm	Reports at POB meetings	Oral report
III.3.E	Chair	Request written reports	Minority reports may be included
III.3.F	Sub-comm	Timely reports on referred matters	Chair may take matter from sub-committee on neglect or refusal
III.3.G	CRC	Reviews civilian police complaints	Submits to POB consent agenda, member may request removal to non-consent agenda
III.3.H	sub-comm	Open Meetings Act does not apply	Sub-committee elect to follow OMA guidelines

III.4	Member	Conflicts of interest	Member withdraws from process with described conflicts
III.5	Board	Removal of Members	Member may be removed for cause by 2/3 vote of Board; demonstrated inability to objectively adjudicate complaints; conduct inconsistent with Police Oversight Ordinance; absence at three consecutive meetings
III.6	Member	Notice of expiration of Board Term	Member notifies city council regarding desire to be re-appointed
III.7		Training	
III.7.A.1	CPOA / Legal	Policies and procedures	Required on appointment
III.7.A.2	Member	Attend one Board meeting as observer	
III.7.B.1	Member	Citizens police academy	Required in first six months, APD provides selected segments necessary for sound POB understanding
III.7.B.2	Member	Civil rights training, 4 th amendment	Legal, Required in first six months
III.7.B.3 III.7.D	Member	APD ride-alongs	Member arranges with APD, two in first six months and every six months subsequent
III.7.B.4	Member	Annual firearms simulation	APD provides annually
III.7.B.5	Member	Internal affairs training	APD IA provides
III.7.B.6	Member	Use-of-force training	APD provides
III.7.B.7	Member	Equity and cultural sensitivity training	CPOA/Legal provides, Required in first six months
III.7.B.8	Member	CASA and Findings Letter	CPOA/Legal provides, Required in first six months
III.7.B.9	Member	Oversight ordinance	CPOA/Legal provides annually – duties obligations and responsibilities imposed on members
III.7.B.10	Member	OMA, IPRA, ethics	CPOA/Legal provides, Required in first six months
III.7.B.11	Member	APD training curriculum	APD provides, Required in first six months
III.7.B.12	Member	Roberts' Rules of Order	Contract, annually
III.7.C	Member	On-going training	Annually, changes in law, policy, CASA developments, Roberts' Rules
III.7.E	ED	Reports on completion of member training	Regularly reports to Board Chair
III.7.F	CPOA Investigators	Receive 40 hours of initial training, 8 hours annually	
III.8	CPOA Staff / Board	Staff and coordinate support	All board meetings, publicize findings, reports and policy changes

Table 12 Conduct and ethics considerations

	Conduct and Ethics Considerations
Trust	
Building trust with the community and APD	<p>Timely and accurate responses to appropriate requests for information from the public are necessary to build and maintain trust with the community.</p> <p>It is the duty of POB members to convey knowledge of the mission and scope of the CPOA to the public and APD.</p>
Maintaining trust with the Agency and support for Board actions	<p>Members should recognize that decisions made by majority vote of the board are the decision of the entire board. Actions by board members to undermine those decisions outside a board meeting are not acceptable.</p>
Leaks of confidential information	<p>Required testimony of police officers which is protected by their Garrity rights may not be publicly divulged.</p> <p>Materials created by the Independent Monitor Team are not considered public information nor are they subject to IPRA until they are released by the IMT.</p> <p>Divulging the contents of draft IMRs is not allowed.</p>
Conduct	
Teamwork	<p>Working as a team member requires that members attend all meetings in which the rest of the team relies on them for participation.</p> <p>Submission of meeting agendas and supplemental materials is required to allow other members to participate efficiently.</p> <p>Teamwork requires working with CPOA staff to schedule meetings, publish the agenda in compliance with OMA, and provide supplemental materials.</p> <p>Performance of defined duties is essential.</p>
Training	<p>The knowledge necessary to perform board duties is gained by receiving training in oversight practices, police procedures and policies, the CPOA mission, understanding applicable laws and guidelines</p>
Impartiality	
Public statements	<p>Public statements must be presented as the view of the individual when they touch on board activities and responsibilities.</p> <p>It is not appropriate to publicly comment on cases before the board.</p> <p>Factual, informative public presentations on police policy are part of a board member’s duties.</p> <p>Social media posts must be considered in light of their ability to undermine trust in the oversight process or the impartiality of members.</p>
Case review, policy and community outreach	<p>Members’-decisions should be based on objective criteria found from reading the case investigation when they disagree with investigative findings and/or recommendations.</p>

	Findings associated with case review should be based on the evidence that was presented and evaluated. An appeal would be the proper place for additional items to be considered.
Ex-parte communication	Referring someone to the CPOA for answers to their questions is not ex parte. Members should not discuss the issues of a case, solicit or engage in dialog about a case.

Summary

This is a plan to create a structure of growth and accountability within the CPOA Board so that it may meet its duties to conduct fair and impartial police oversight as described in the City Ordinance which established the CPOA and the CASA. Conducting responsible police oversight consists of meeting defined requirements as stated in the above documents and by following parliamentary procedures and governance principles. In addition to specific duties, Board members can be evaluated by public conduct, which could be seen to create conflict and/or mistrust within the community and APD.

This task was established to create guidelines for the CPOAB to deal with unacceptable member conduct in the context of police oversight. This led to an examination of what constituted appropriate member conduct, which in turn led to describing member conduct consistent with the mission of the CPOAB.

Project elements

Project Scope – Create and operate an organization that conducts police oversight in Albuquerque while following the requirements of the police oversight ordinance, the CASA, APOA contract and applicable state and federal laws and regulations.

Mission and Objectives - Trust building between APD and stakeholders, objective and timely complaint investigation, policy recommendations to the department, and community outreach.

Project requirements – Support constitutional policing especially regarding use-of-force and improve relations between the police and the community.

Source of requirements – CABQ oversight ordinance, CASA, OMA, IPRA, US/State/Local laws

Conducting police oversight consists of meeting both well-defined requirements such as investigating complaints and more subjective requirements to be impartial, transparent and build trust. These requirements are tabulated in Tables 1-10 at the end of this document.

Board procedures and duties– CPOAB Policies and Procedures and Roberts' Rules of Order provide a basis for how the board conducts business. Modifications to the CPOAB Pol/Proc and additional policies will be developed as needed. Table 11 links requirements from the Ordinance and the CASA into Board Policies and Procedures and describes the duties and responsibilities of Board members.

Review and assessment – This will include assessment of performance of duties consistent with generally accepted board or committee norms and will evaluate whether members are performing their duties according to the specific project elements described. A special review may occur in extenuating circumstances when a complaint or particular conduct presents the need for a review outside of the normal member review schedule.

Oversight Duties

As can be seen from the extensive list of duties found in the Ordinance, CASA and CPOAB Pol/Proc, members will have a significant demand on their time. A review of member performance must be put in the context of whether it is reasonable to expect a volunteer, unpaid member to perform all the tasks implied or required of them. A first attempt at estimating the time requirements for members is included separately. The review and self-assessment process described below will aid Board members to evaluate if they can commit the time to acquire the necessary skills and then perform the required duties.

We recommend that before member reviews are conducted, the board hold a retreat to discuss the issues brought up in this policy.

Board Self-assessment and Individual Board Member Review

Board members can choose to serve based on their ability to perform the time-intensive activities described in the Ordinance and CASA. With the aid of the self-assessment process proposed below, Board members can evaluate and improve their performance, or they can find that they are not willing or able to meet the standards for Board membership and choose to leave the Board. Review of Board member performance and Board self-assessment would allow the Board to recognize issues before they become problems and, most importantly, aid the Board in performing the critical function of police oversight. This process should not be viewed as having the goal of removing board members, but rather of improving overall board and member function.

Annual Self-assessment

A proposal for a self-assessment meeting would be put on the Board agenda annually, at a date to be determined. The Board will have the opportunity to determine the details of such a meeting including, for example, if it should be facilitated by an independent facilitator. It will also need to be determined if this meeting can be conducted in closed session.

Individual Member review

Data Collection by CPOA Executive Director

Qualifications, Training and performance data. The Executive Director will include in the Member Review Report whether any of the conditions for Board membership have changed and performance data, including meeting training requirements, compiled from duties in Tables 1-11

Complaints Data. The complaints data will include public complaints regarding member's social media activity or member's public comments sent to the CPOA and/or Board. In addition, Table 12 lists some subjective qualities against which board member conduct should be evaluated and is the main reason this policy is being developed. What may have been overlooked in the past is the obligation of members of representative governmental boards to yield some of their individual speech rights in order to make and support collective board decisions.

Board Review

Board Chair or Review subcommittee. Reviews data collected by the Executive Director and discusses it privately with the Board member. If possible, the Chair and Board member create a remediation plan.

Board Special Meeting. If the plan appears not to work after the defined duration or if no plan is created the Chair calls a special meeting for consideration of Board member removal evaluated along the member's training, conduct and ethics record.

Proposed changes to CPOA Policies and Procedures

This proposal requires modification of the *Civilian Police Oversight Agency Policies and Procedures* as follows:

III.2 Powers and duties of the Chairperson and Vice-Chairperson

Add the following duties for the Chairperson

II.2.A (14) Conduct a periodic review of members' training and conduct utilizing the report produced by the Executive director in Paragraph III.6.E.' Members who have served less than six months will receive a review six months from their appointments. Subsequently all members will receive an annual review. The review team will consist of the Board Chairperson (or his/her designee), and the Executive Director.

II.2.A (15) Organize an annual self-assessment of Board performance to be conducted in June of each year.

III. 5. Removal of Members make the changes below:

III.5. Review, Discipline and Removal of Members Any Board member may be removed for cause by a two-thirds 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.

III.5.A The appointment of any Board member who has been absent and not excused by the Chairperson from three consecutive regular or special meetings shall automatically expire effective on the date the Board reports such absence to the City Clerk. The Board will review and validate by majority vote the absences in question before reporting 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.

III.5.B Review and Discipline Process

- ~~1. A member review process may either be requested by the public or another member.~~
2. The Chair can choose to initiate a member review process if 1) requested by the public or another member or 2) based on the Chair's review of member's record or if a critical incident regarding Board member's conduct occurs or 3) if three members support a call for review.
3. The Chair shall ask the Executive Director for a current report of that member's status regarding completed required member training, Board related performance or conduct deficiencies and public complaints received. The Executive Director has thirty days to deliver the report to the Chair and the member in review.
4. After the report is delivered, the member in review may request a meeting with the Chair to discuss the facts and allegations in the report and, if agreed, create an improvement plan. This plan shall be reported to the Board. If a plan is not agreed to or, after 30 days, the plan appears to the Chair to be failing, the Chair will schedule a special Board meeting to hear the case for Board member discipline.
5. If the review shows misconduct that rises to a level that requires action by the Board, the Chair may move to place the review on a regular scheduled meeting agenda or depending on the

urgency of the situation, call a special meeting of the Board for this purpose. Board members may place a Board review of the member on the agenda or remove the review from the agenda according to the appropriate governing rules of parliamentary procedure.

6. During a board review, each member shall have no more than five minutes to question or comment and shall have no more than two substantive opportunities to hold the floor. The member in review shall have the opportunity to respond to all questions and comments. The executive director and agency staff shall participate only so much as to present factual findings and answer direct questions on those findings.
7. Upon review discussion completion the board may:
 - a. Close the review with no action (majority vote)
 - b. Leave the review open with no action, after 60 days review is closed (majority vote)
 - c. Leave the review open with request for additional information (majority vote)
 - d. Close the review with member censure (majority vote)
 - e. Close the review with member suspension (2/3 vote)
 - f. Close the review with member removal (2/3 vote).

The Chair will publicly announce the action of the Board.

III. 6 Orientation and Training

III.6.E. The Executive Director shall report completion of each Board member's initial and ongoing training activities to the Chair of the Board every six months from the date of each member's appointment or when requested by the Chair so as to keep the Chair of the Board apprised of these activities. *This report will be supplemented with any record of written ~~citizen~~ complaints received regarding board member's public conduct or actions which interfere with the objective of the CPOAB. The Executive Director will also compile a record of ~~observations regarding~~ Board member performance of required duties described in the ordinance.*

Recommended Training

While the Oversight Ordinance recommends attending the NACOLE conference as a means for Board members to receive police oversight training, it is recognized that the NACOLE conference is a considerable investment of Board members' time. This may severely limit the number of potential Board members who apply for the CPOA Board. Substitute training should be provided locally by a certified oversight practitioner.

NACOLE Code of Conduct

The Board should adopt the National Association for Civilian Oversight of Law Enforcement Code of Ethics. NACOLE has a proven history of developing police oversight policies and practices and is respected by law enforcement agencies. Adopting the NACOLE code and associated practices would aid the CPOA in improving its oversight function. A code of ethics regulates the judgment of the organization while a code of conduct regulates the actions. A code of conduct is derived from the code of ethics and can be a directional document containing specific practices and behavior, that are followed or restricted under the organization.

For more information available from NACOLE see: [Core-Competencies-for-Civilian-Oversight-Practitioners-20110114.pdf](#)

CITY OF ALBUQUERQUE

Albuquerque Police Department



Michael J. Geier, Chief of Police
March 14, 2019

VIA CERTIFIED MAIL

CPC 122-18

Dear Ms. R :

Upon receipt of the complaint filed, Diane McDermott of the Civilian Police Oversight Agency conducted an investigation into the incident. The completed investigation has been through the review process mandated by City Ordinance, which includes a review by the Executive Director.

After careful consideration of the available facts, I agree with the findings of the Executive Director of the Civilian Police Oversight Agency. With the exception of SOP 2-60-4B5, Detective F. H.

It was determined the officer violated Department policy and was disciplined in accordance with Department guidelines.

400 Roma NW

If you have any further questions regarding this disposition, please contact the Civilian Police Oversight Agency at 924-3770. You have the right to appeal the findings by sending a letter requesting an appeal to the Chief Administrative Officer via Office of the Mayor, PO Box 1293, Albuquerque, NM 87103, within 30 days of this notification.

Albuquerque

New Mexico 87102

I would like to thank you for bringing this matter to my attention. It is unfortunate that you had an unfavorable experience with the Albuquerque Police Department; however, I would hope that this one incident does not taint your total impression of the Department.

www.cabq.gov

Sincerely,

MICHAEL J. GEIER
Chief of Police

MJG/MV/jb
cc: Internal Affairs Unit
Civilian Police Oversight Agency

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City of Albuquerque

Albuquerque Police Department



Timothy M. Keller
Mayor

Michael J. Geier
Chief of Police

Interoffice Memorandum

January 3rd, 2020

To: Ed Harness, Director, CPOA

From: Chief Michael Geier

Subject: Non-Concurrence Memo, Off. J. L., re: CPC 144-19

I held a Pre-Disciplinary Hearing (PDH) on December 17, 2019 in regards to this case. While I concurred with all the findings of the CPOA, I was not in agreement with their proposed disciplinary recommendations.

As noted in SOP 3-44, F5, "The Chief has discretion over, and whether, and at what level to impose discipline. If the Chief's decision differs from the CPOA's recommendation, the Chief sends a memo to the CPOA Executive Director within 30 days of the CPOA's recommendation, explaining the reasons the recommendation was not followed."

I do agree that Off. L. could have handled this call in a more professional manner. He should have documented the incident and could have issued a citation for Criminal Trespass. His interpretation of the McClendon ruling was not accurate. He also should have tagged the drill into evidence for safekeeping.

I do not believe there was a clear determination of untruthfulness as indicated in the investigative findings. In regards to the disposition of the drill, for example. I cannot show a preponderance of evidence that his statement indicating "he returned later and pushed the drill over the wall" was either true or untrue. He admitted to taking the drill, which is consistent with the witnesses' statements but he later relates that he did not tag the drill but disposed of it later back at the scene of the original call. No witness offered any evidence to disprove his account of what happened. The preponderance standard would have required at the minimum, a 51%-49% outcome. While instinctively I had my doubts, I am obligated to address this fair and objectively.

I do agree there are concerns as to lack of corroboration as to where the drill was removed from L... unit and left at the residence.

I also disagreed with the investigator's interpretation of NM State Statute 30-14-8. He relies on his interpretation as a basis in determining the veracity of Off. L... While the "breaking or dismantling" part is one key element of the crime of Breaking and Entering, this case lacks evidence of the second element, that being the actual entry or a literal "breaking of the plain" into the structure in question. From past experience I know that at best this could have been a criminal damage, not a 4th degree felony. The District Attorney's Office would not have prosecuted on such a case without both elements.

There is no doubt many of Off. L... other statements are misleading and evasive. However, I can only rely on my past experiences with issues of "untruthfulness" and I have found many different examples of what might be considered to meet the criteria. These range from a small "white lie" to a comprehensive and deliberate falsification of statements or documents to cover up misconduct or even criminal activity.

The Chart of Sanctions for one of the charges involving untruthfulness, SOP 1-1-4D20, range from a 1-5. While this is an example of a sustained policy violation, I do not agree that this falls into what I would consider the higher end of that arbitrary scale. There is no definitive definition in our policy at this time that clarifies what would define or clearly explain, an example of each level in that broad range of sanctions. With that in mind, I chose to impose discipline on that particular policy violation as a sanction 5. The recommended discipline for that is an 8 to 32 hour suspension. I chose to go with a 16 hour suspension, with 8 hours to be held in abeyance, all consistent with this sanction. My total recommendation in this case was as follows:

RECOMMENDATIONS:

SOP: 2-60-4 A 1&5	SUSTAINED	Written Reprimand
SOP: 1-1-4-87	SUSTAINED	8 hours Suspension/4 in Abeyance
SOP: 2-73-2A	SUSTAINED	8 hours Suspension/4 in Abeyance
SOP:1-1-4D20	SUSTAINED	16 hours Suspension/8 in Abeyance

Total 32 hours Suspension/16 in Abeyance

As Chief of Police, I have certain institutional knowledge and insight that I consider before making a final decision in any of these cases. I carefully review the investigative files both prior to and after each PDH that I am involved in. I also review such relevant information as an officer's prior disciplinary history and performance evaluations. Additionally, I will conduct informal interviews with the officer's peers and past supervisors to gain a comprehensive understanding of the integrity, character and work ethic of the accused officer.

As Chief, I also have to consider the impact of my decision as relevant to current operational issues and concerns within the Department. While these are not disciplinary in nature, I often will often take additional corrective action to address the behavior or future conduct of an officer. In this particular case, Off. L was a Field Training Officer. Based on the Procedural Guidelines for the position, I removed him from that program. He will not be allowed to continue as an FTO and will not be entitled to any benefits or privileges associated with that program.



Chief Michael J. Geier