



CIVILIAN POLICE OVERSIGHT BOARD

Thursday, October 12, 2017 – 5:00 PM
Vincent E. Griego Chambers, Basement Level
City/County Government Center – One Civic Plaza NW
Albuquerque, New Mexico

Members Present:

Joanne Fine, Chair
Johnny J. Armijo
Susanne Brown
Dr. William Kass
Valerie St. John
Leonard Waites

Members Absent

Eric Cruz
Rev. Dr. David Z. Ring III

Others Present

Edward Harness, CPOA
Michelle Contreras, CPOA
Amanda Bustos, CPOA
Lt. Jennifer Garcia, APD
Acting Major James Collins APD
Jeremy Schmehl, Asst. City Atty
Matthew Jackson, Esq.

Meeting Minutes

- I. Welcome and call to order** – Chair Fine called to order the regular meeting of the Police Oversight Board at 5:02 p.m.
- II. Pledge of Allegiance** – Member Kass led the meeting in the Pledge of Allegiance.
- III. Mission Statement** – Chair Fine read the POB's Mission Statement.
- IV. Approval of the Agenda**
- a) A motion was made by Member Waites to approve the agenda. Member Armijo seconded the motion. The motion was carried by the following vote:
For: 6 – Armijo, Brown, Fine, Kass, St. John, Waites
- V. Public Comments** – None.
- VI. Review and Approval of Minutes.** For more information about minutes from prior POB meetings, please visit our website here: <http://www.cabq.gov/cpoa/police-oversight-board/pob-agenda-meeting-minutes>
- a) **Approval of the Minutes from September 21, 2017**
1. Copies of the draft minutes from September 21, 2017 POB meeting were distributed to each member in their packets.
2. A motion was made by Member Waites to approve the minutes as written. Member Armijo seconded the motion. There was no discussion. The motion was carried by the following vote:
For: 6 – Armijo, Brown, Fine, Kass, St. John, Waites
- VII. Discussion:**
- a) **Elect POB Vice Chair**
1. Chair Fine nominated Member St. John to be POB Vice-Chair. There were no other nominations.

2. A motion was made by Chair Fine to nominate Member St. John to be POB Vice-Chair. Member Brown seconded the motion. The motion was carried by the following vote:

For: 6 – Armijo, Brown, Fine, Kass, St. John, Waites

b) Chief's Letters

1. **Chief's Letter dated October 4, 2017 regarding the Video Download Capabilities. See attachment "A."**
 - a. Director Harness gave a summary of the Chief's letter and at the Chief's request, for Director Harness to meet with Assistant City Attorney Schmehl to discuss a protocol for the video downloads to preserve videos longer than 120 days.
 - b. Members discussed the October 4, 2017 letter from Chief Eden, Jr. to Chair Fine regarding the video down capabilities of the CPOA Investigators.
 - c. Assistant City Attorney Jeramy Schmehl stated that the CPOA has access to videos via evidence.com and as long as it is not tagged "Do not delete," the agency has access to the video.
 - d. The audit function was discussed.
2. **Chief's Letter dated October 4, 2017 regarding CPC 093-17. See attachment "B."**
 - a. Director Harness read the Chief's letter responding to the CPOA's findings in CPC 093-17.
 - b. This case will be reviewed by the Independent Monitor because it is a non-concurrence.
 - c. **APD Preliminary Disciplinary Process (PDH).** A discussion was had as it relates to APD's Preliminary Disciplinary Process which the employee must go through when the Chief recommends discipline. Lt. Garcia explained it as follows:
 - i. APD does not release recommendations only final discipline.
 - ii. There is no specific time frame requirement for the PDH to occur but the department has 14 days to notify the employee of the Chief's proposed recommendation in writing.
 - iii. If the employee requests a PDH, the Chief will try to schedule it quickly because it is not fair to keep the employee in limbo. However, if the Chief cannot schedule it quickly because of conflicts in his schedule, the hearing is usually done within 30 days.
 - iv. The entire chain of command had 30 days to review the case and propose discipline and there is no set time limit on when that discipline has to be final.

- v. That the PDH is part of the collective bargaining agreement.
- d. Members discussed with Attorney Matt Jackson and Director Harness the various options that the POB can proceed is as follows:
 - i. Follow-up with a letter to the Independent Monitor, City Council and the DOJ;
 - ii. To refer this issue to the POB Policy and Review Subcommittee to examine the entire discipline process to include requirements from City Human Resources, which are outside APD policy and what is within APD policy.
 - iii. To raise the issue while in discussions with the Assistant City Attorney Jeramy Schmehl.

c) Citizens Police Academy and Ride Along Form

- 1. **Ride along form (See attachment “C”).** Discussed the ride along form that Attorney Matthew Jackson drafted.
- 2. **Citizen Police Academy (CPA) – *Acting Major Collins*.**
 - a. Acting Major Collins advised the POB that they have cut the CPA down 50%, which is 6 to 7 weeks. They anticipate the shortened version will begin starting in March 2018 and the classes will be 1 to 2 days a week. However, in order to avoid the possibility of losing a quorum for voting on cases, Acting Major Collins is willing to move the CPA to February right after the new board members are selected and appointed to the POB.
 - b. The full 12-week CPA has not been scheduled as he is currently working on a getting a coordinator in place.
 - c. The option for Member Kass and future POB Member to view previous CPA video sessions was discussed.
 - d. Acting Major Collins will follow up on the CPA and either the CPOA Staff or the APD will get back to the POB.

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

a) Administrative Closed Cases

087-17 145-17 159-17

- 1. A motion was made by Member Waites that we [POB] accept the *Administratively Closed* cases. Member Brown seconded the motion. There was no discussion as to any of the administratively closed cases. The motion was carried by the following vote:

For: 5 – Armijo, Brown, Fine, St. John, Waites

Abstain - Kass abstained from voting on cases until after the completion of his training.

b) Cases Investigated.

089-15 035-17 110-17 142-17

1. A motion was made by Member Waites that we [POB] accept the *Cases Investigated*. Member Armijo seconded the motion. There was no discussion as to any of the administratively closed cases. The motion was carried by the following vote:

For: 5 – Armijo, Brown, Fine, St. John, Waites

Abstain: 1- Kass abstained from voting on cases until after the completion of his training.

c) CIRT Cases. None

IX. POB's Review of Garrity Materials.

- a) **OIS I-50-15, I-119-14.** A motion was made by Member Waites that we request access to the Garrity materials for OIS I-50-15 and I-119-14. Member Brown seconded the motion. There was no discussion as to agenda item IX.

For: 6 – Armijo, Brown, Fine, Kass, St. John, Waites

- X. **Dinner Break.** A motion was made by Member Waites to adjourn for dinner. Member St. John seconded the motion. The motion was carried by the following vote:

For: 6 – Armijo, Brown, Fine, Kass, St. John, Waites

----Dinner began at 6:25 p.m. and reconvened at 6:52 p.m. ----

XI. Reports from Subcommittees

- a) **Community Outreach Subcommittee – *William Kass*** - For more information regarding POB Community Outreach Subcommittee meetings, agendas and minutes, please refer to the website located here:

<http://www.cabq.gov/cpoa/subcommittees/outreach-committee>

Member Kass gave a report on behalf of the Community Outreach Subcommittee:

1. Member Kass and Ms. Amanda Bustos attended and presented to the Silver Hills Board meeting on Monday, October 9, 2017. Member Kass it went real well received.
2. Member Kass attended the training that Director Harness conducted at the Emergency Communications Center.
3. Member Kass attended the Citizen Policing Council meeting in the NE Heights. They changed their meeting format and formed small groups in order to allow people to discuss APD and policing.
4. The Community Outreach Subcommittee will be discussing more outreach events at their next meeting on October 17, 2017 at 5 p.m.

- b) **Policy and Procedure Review Subcommittee – William Kass** - For more information about the POB Policy and Procedure Subcommittee meetings, agendas and minutes, please refer to the website located here:
<http://www.cabq.gov/cpoa/subcommittees/policy-procedure-review-committee>
Member Kass gave a report on behalf of the Policy and Procedure Review Subcommittee:
1. At the Policy and Review Subcommittee meeting last month, they discussed the policy process and new a flow chart was drafted. The major change in the process is that the POB recommendations to be sent to SOPRC. **See attachment “D.”**
 2. A discussion was had regarding how the public can submit input into policy.
 3. Policy recommendation that APD review their process for when they ran code 3 in response to priority calls.
 4. Dr. Kass created a list of policies for historical/tracking reasons. Dr. Kass asked that the POB comment on their least favorite policies.
 5. **Telephonic Public Comment – Revisited.** Members discussed the issue on telephonic public comment at subcommittee and POB meetings. Attorney Matthew Jackson will discuss the rule and procedures amendment process with Director Harness regarding this topic.
- c) **Case Review Subcommittee – Joanne Fine.** For more information regarding POB Case Review Subcommittee meetings, agendas and minutes, please refer to the website located here: <http://www.cabq.gov/cpoa/subcommittees/case-review-committee-crc>. Member Waites gave a report on behalf of the Case Review Subcommittee:
1. The Case Review Subcommittee met on Tuesday, October 3, 2017 and several items were discussed, they are:
 - a. Director Harness discussed several item, such as the Independent Monitor’s recent report number 6 and the Memorandum of Understanding for Mediation.
 - b. Discussed the cases that were investigated by the CPOA and presented at the POB meeting on 10/12/2017.
 2. The CRC will meet next on November 7, 2017 at 10:00 a.m.
 3. **Appeals – None.**
- d) **Personnel Subcommittee**
1. **Selection of Chair for the Personnel Subcommittee.** Member discussed that the Personnel Subcommittee will reconvene in order to do the evaluation of CPOA Director Edward Harness. Member Cruz has agreed to be chair of the POB Personnel Subcommittee. Attorney Matthew Jackson advised the POB chair that they can add the selection of the chair to their next agenda to nominate and appointment Member Cruz.

XII. Reports from City Staff

- a) **APD – Lt. Garcia** gave the following report for APD:
 - 1. Lt. Garcia read the Statistical Data for the Month of September 2017. A copy of the following document titled: *Police Oversight Board, APD Internal Affairs, Statistical Data for the Month of September 2017* was distributed to the POB members. See Attachment “E”
 - 2. The formatting of the CIRT cases was discussed. Lt. Weber and Commander McRae are working on simplifying the viewing process of the CIRT cases and they are adding a table of contents as well as subfolders.
 - 3. Discussed the OIS Upload cases, which will be available to the POB via Safelink at the same time as Director Harness.
 - 4. A friend of Dr. Kass, who is from Puerto Rico, is interested in applying to APD. Acting Major Collins advised Dr. Kass that his friend can go to the website APDonline.com and fill out an interest card and/or contact Officer Russ Alberti or Sgt. Hoisington for more information.
- b) **City Council** – No one present to give report.
- c) **Mayor’s Office** – No one present to give report.
- d) **City Attorney** – Mr. Jeramy Schmehl, Assistant City Attorney, gave a report on behalf of the City Attorney’s office, as follows:
 - 1. Mr. Schmehl will speak with Director Harness and the POB’s attorney regarding Evidence.com and further discussion about the Chief’s 30-day response.
 - 2. Trying to get a working group between POB, parties and the City to finalize the policy and the language for the Policy Development Process policy 3-52.
 - 3. If the POB has any issues, bring them to Mr. Schmehl and he will try his best to try and resolve them and have discussions.
- e) **CPOA – Edward Harness, Executive Director.** Director Harness gave his report for the CPOA, as follows:
 - 1. Director Harness had a teleconference call with members of APD Forward and the DOJ to discuss the status conference.
 - 2. POB members received a copy of the draft of IMR 6 and if the POB have any comments to forward to the monitor, they need to provide them to Director Harness by Monday, October 16, 2017 because they are due Tuesday, October 17, 2017.
 - 3. Discussed the CPOA’s compliance under the IMR 6.
 - 4. Discussed the dates that the POB can meet with the DOJ and the parties before the hearing in front of Judge Brack. There are three slots available on November 8th or November 14th, which is wide open. The meeting with Judge Brack is set for November 16, 2017 starting at 9 a.m. and it will be an all-day hearing.

5. Director Harness suggested to Member Kass that he can search for the CPOA in the IMR 6 report to look at the paragraphs that they are being evaluated on.
6. There is an opportunity for the POB to meet with the entire DOJ team that is going to be in town on Friday, November 17, 2017. Director Harness will contact them to schedule a time to meet. Members St. John, Brown, Armijo and Fine will attend the meeting.
7. The Daigle Law Group IA combined training between IA and the CPOA will be held on Monday, October 30, 2017 through Friday, November 3, 2017 at the Albuquerque Convention center and there are 32 confirmed attendees.
8. The MOU for Mediation will be going to Dr. Ginger prior to the meeting with Judge Brack after the final comments are incorporated.
9. The data analysis contract between UNM and the CPOA is currently under review by UNM and City legal.
10. The Emergency Communication training was completed on the 5th of October.
11. The CPOA will be doing a presentation at UNM Policing and Planning course on November 9th.
12. The CPOA will be doing another class at OASIS.
13. **CPOA Case/JWD Report:**
 - a. Job Well Done Reports received at the CPOA:
September 2017: 11
 - b. New Complaints received at the CPOA:
September 2017: 51
10 through 311
12 actual forms
12 from online
14. The Ordinance O-17-55 PROHIBITING ELECTED OFFICIALS AND DEPARTMENTS, BOARDS, COMMISSIONS AND ADVISORY GROUPS OF THE CITY OF ALBUQUERQUE FROM ORGANIZING, SPONSORING, ADVERTISING OR HOSTING POLITICAL FORUMS was in front of the Finance and Government subcommittee on October 9, 2017. It was passed with a recommendation of do pass to City Council for review and adoption.
15. Member Kass wanted a follow up as to the Policy Subcommittee inquiry into the relationship between CYFD and APD and how the complaints are handled. Investigator Skotchdopole found a few policies and did not find much as it relates to best practices. In addition, there was specific recommendation in CPC 093-17 which outlines some protocols that APD should follow regarding CYFD referrals. The Chief has yet to respond to the recommendations in CPC 093-17.

XIII. Meeting with Counsel re: Pending Litigation & 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);**
- b) **Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)**

- 1. Chair Fine read aloud the following statement:

“Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H) (7) and limited personnel matters pursuant to NMSA 1978, Section 10-15-1 (H) (2).”

- 2. A motion was made by Member Waites that the POB go into a closed session. Member Brown seconded the motion.

Roll call: Kass, St. John, Fine, Waites, Armijo, Brown

- 3. At 7:55 p.m., the POB went into an executive session.
- 4. At 8:01 p.m., the POB came out of an executive session.
- 5. Chair Fine called the meeting to order.
- 6. After the motion, Attorney Baker read the following statement:

“The only matters discussed in our closed discussion were those [matters regarding pending litigation or personnel issues only]. Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H) (7) and limited personnel matters pursuant to NMSA 1978, Section 10-15-1 (H)(2).”

- 7. A motion was made by Member Brown to bring the POB back into regular business. Member Kass seconded the motion.

Roll call: Kass, St. John, Fine, Waites, Armijo, Brown

XIV. Other Business. None.

- XV. Adjournment - A motion was made by Member Kass to adjourn the meeting. Member Armijo seconded the motion. The motion was carried by the following vote:**

For: 6 – Armijo, Brown, Fine, Kass, St. John, Waites

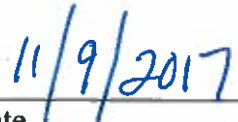
The meeting adjourned at 8:03 p.m.

*Next regularly scheduled POB meeting will be on
Thursday, November 9, 2017 at 5 p.m. in the Vincent E. Griego Chambers.*

APPROVED:



Joanne Fine, Chair
Civilian Police Oversight Agency



Date

CC: Julian Moya, City Council Staff
Natalie Howard, City Clerk
Isaac Benton, City Council President

Minutes drafted and submitted by:
Michelle Contreras, Senior Administrative Assistant

Attachments

CITY OF ALBUQUERQUE

Albuquerque Police Department



Gorden E. Eden, Jr., Chief of Police



October 4, 2017

Joanne Fine, Chair
Civilian Police Oversight Agency
City of Albuquerque
P.O. Box 1293
Albuquerque, New Mexico 87103

Ms. Fine:

This letter will serve as a response to your correspondence to me on September 29, 2017 concerning the video download capabilities of CPOA investigators from evidence.com.

I have confirmed that there is no longer download capability for CPOA investigators from evidence.com. This change in protocol has come after consultation with the Bernalillo County District Attorney's Office as well as expert advice in response to concerns recently raised over the integrity of evidentiary videos in high-profile officer involved shooting.

400 Roma NW

It is important to note that CPOA investigators have access to evidence.com and many of the videos subject to investigations are tagged "do not delete." This means that they will have access to these records as long as they have access to the server. I also understand that there is a concern where videos which are central to CPOA investigations may not be tagged for deletion after a certain period of time.

Albuquerque

New Mexico 87102

I have reached out to City legal and Mr. Schmehl will be contacting Mr. Harness to discuss the best protocol for CPOA investigator's to communicate with the Department to assure that videos necessary for an investigation are not deleted.

www.cabq.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Gordon E. Eden, Jr.".
Gorden E. Eden, Jr.
Chief of Police

Albuquerque - Making History 1706-2006

Attachment "A"

CITY OF ALBUQUERQUE

Albuquerque Police Department



Gorden E. Eden, Jr., Chief of Police



October 4, 2017

Joanne Fine, Chair
Civilian Police Oversight Agency
City of Albuquerque
P.O. Box 1293
Albuquerque, New Mexico 87103

10-04-17POLICE BOARD

Ms. Fine:

This letter will serve as a response to your correspondence to me on September 29, 2017 concerning CPC-093-17 and the timeliness of my final disciplinary decision in this case.

400 Roma NW

Albuquerque

New Mexico 87102

www.cabq.gov

I understand that the CPOA ordinance requires me to respond with my final disciplinary decision within thirty (30) days after the Board has provided me its findings and recommendations. I think it is important for you to understand the process when I consider imposing discipline on an effected employee: (1) chain of command review of the case. (2) *Loudermill* meeting is scheduled with the effected employee. (3) pre-disciplinary hearing conducted. (4) final case review and employee notified of the final decision. These steps are rooted in Departmental policy, City rules and fundamental labor law practices and make it virtually impossible for me to respond within the timeframe called for in the ordinance.

I have alerted City legal so that work can be undertaken to address revisions to the ordinance which take into consideration my obligation to observe the employment rights of personnel while also being responsive to your Board and the concerned civilian's interest in learning of a final disciplinary finding. I know that Mr. Schmehl has reached out to Mr. Harness concerning this issue and I believe that their work should result in a revision to the ordinance which seeks to balance these concerns.

Sincerely,

Gorden E. Eden, Jr.
Chief of Police

Attachment "B"

**ALBUQUERQUE POLICE DEPARTMENT
POLICE OVERSIGHT BOARD RIDE ALONG REQUEST FORM**

Requester _____ Date of Birth _____
Address _____ Phone _____
Social Security _____ Next of Kin _____
Next of Kin Phone _____

LIMITED COVENANT NOT TO SUE

I, the undersigned, have been appointed to the Albuquerque Police Oversight Board. Pursuant to Albuquerque Ordinance § 9-4-1-5(F)(2)(c), I am required to complete at least two ride-alongs with the Albuquerque Police Department every six months.

I fully understand that police work is inherently dangerous and that, in addition, the police officer or officers with whom I am assigned may make decisions adverse to my personal safety.

I represent that neither I, nor my assign, successor, guardian, nor personal representative, as the case may be, will bring any action against the City of Albuquerque, the Albuquerque Police Department, or their agents or servants for any wrongful death, injury, or property damage arising from the normal dangers associated with police work that I may suffer while riding in this vehicle.

I further agree to immediately obey all instructions given to me by police personnel, and I agree that I will retreat from the vicinity of any hazardous situation that may be encountered.

It is understood that this limited covenant not to sue is not intended to release from liability any third party that might cause a wrongful death, injury, or property damage to me.

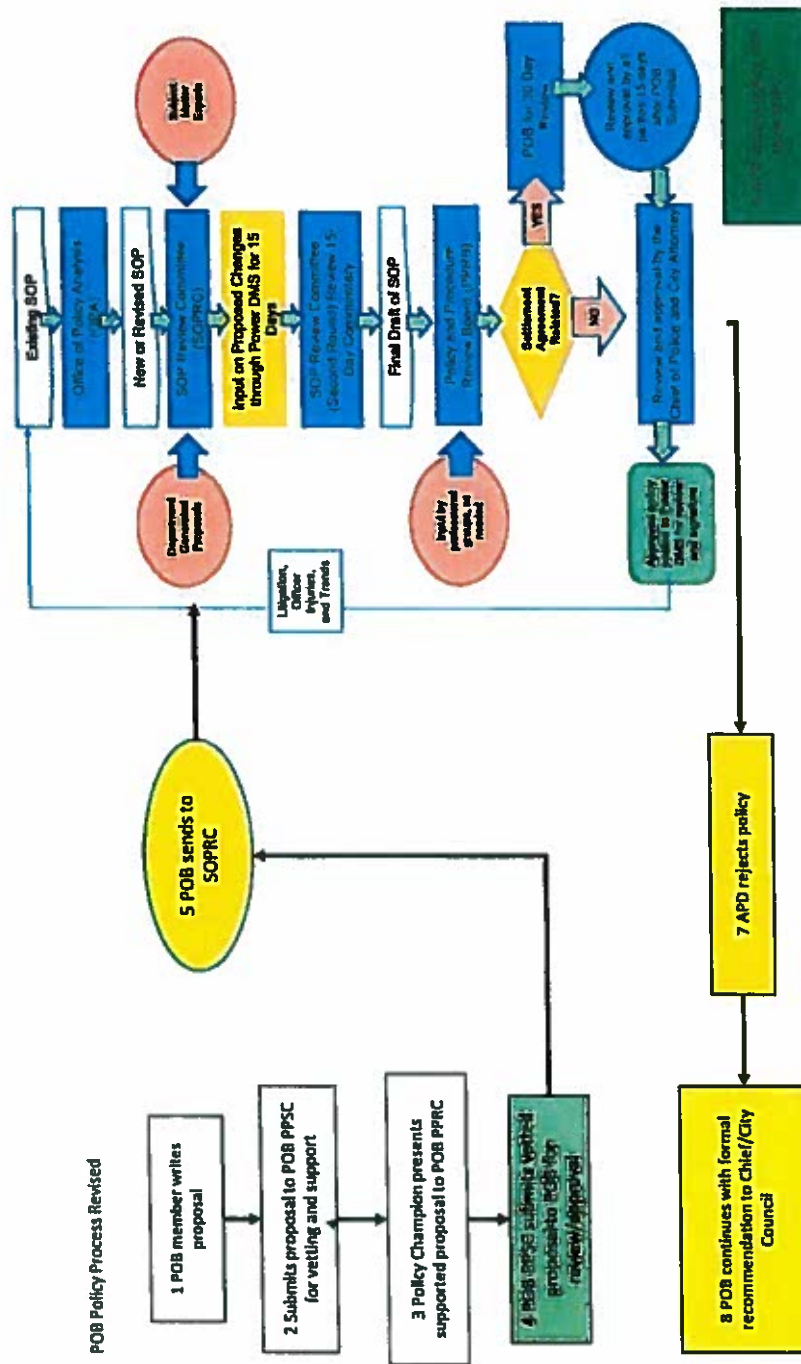
This is a complete understanding between me and the Albuquerque Police Department.

WITNESSED THIS _____ DAY _____ DATE _____
Requester signature
OF _____, 20_____
DATE _____

MY COMMISSION EXPIRES _____

Approved by: _____ ACOPS _____
Officer Assigned: _____ ID _____
Warrants _____
Date _____ Area _____ Watch _____ Beat _____

Attachment "C"



Attachment "D"

POLICE OVERSIGHT BOARD
INTERNAL AFFAIRS
STATISTICAL DATA FOR THE MONTH OF SEPTEMBER 2017

APD 911 Communications Center

Dispatched calls for Service for SEPTEMBER 2017: 45,549 (decreased from September (3151))

INTERNAL CASES FOR THE MONTH OF SEPTEMBER 2017

I's

Total Internal Cases Completed the Month of SEPTEMBER: 1

Comprised of:

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

Internal Cases Administratively Closed: 0

Internal Cases Mediated: 0

Discipline imposed for Internal Cases/ SEPTEMBER 2017:

1: Verbal Reprimand – Conduct – Personnel Code of Conduct – Rules of Conduct – Department Property

EIRS SEPTEMBER 2017: 6 Alerts distributed

Pending IA Cases for the Month of SEPTEMBER 2017: 3*

***Is related to the number of cases opened within SEPTEMBER**

Attachment "E"