



## Mission Statement

*“Advancing Constitutional Policing and Accountability for the Albuquerque Police Department and the Albuquerque Community”*

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## Semi-Annual Report

*January 1<sup>st</sup> 2020- June 30<sup>th</sup> 2020*

**Edward W. Harness, Esq**

Executive Director

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## List of Acronyms

- ❖ *APD*- Albuquerque Police Department or “Department”
- ❖ *APOA*- Albuquerque Police Officers Association
- ❖ *CPOA*- Civilian Police Oversight Agency or “Agency”
- ❖ *CPOAB*- Civilian Police Oversight Agency Board or “Board”
- ❖ *CPOA/Board*- Both Agency and Board
- ❖ *CASA*- Court Approved Settlement Agreement
- ❖ *CPC*- Civilian Police Complaint
- ❖ *CRC*- Case Review Sub-Committee
- ❖ *DOJ*- Department of Justice
- ❖ *ECW*- Electronic Control Weapons
- ❖ *FRB*- Force Review Board
- ❖ *IA*- Internal Affairs
- ❖ *IAFD*- Internal Affairs Force Division
- ❖ *OBRD*- On-Body Recording Device
- ❖ *OIS*- Officer Involved Shooting
- ❖ *OPA*- Office of Policy Analysis
- ❖ *PNP*- Policies and Procedures Review Sub-Committee
- ❖ *PPRB*- Policy and Procedures Review Board
- ❖ *SOP*- Standard Operating Procedures
- ❖ *SNBOOC*- Sustained Not Based on Original Complaint
- ❖ *SUOF*- Serious Use of Force

## Report Highlights

- ❖ Civilian Police Oversight Agency recorded 254 complaints while 157 complaints were assigned CPC numbers during January 1<sup>st</sup> to June 30<sup>th</sup>, 2020 reporting period.
- ❖ The Agency closed 104 Civilian Police Complaints during this reporting period.
- ❖ 78% of the Civilian Police Complaints were closed within 120 days.
- ❖ Agency received 157 complaints in this reporting period compared to 92 received in the last reporting period.
- ❖ 104 complaints were closed compared to 118 complaints closed in the last reporting period.
- ❖ 58% of complaints closed during this reporting period had the finding of 'Administratively Closed' and 35% were closed due to 'Lack of Information'.
- ❖ 17 SOPs were reviewed 88 times for 42 cases with disposition other than 'Administratively Closed'. SOP 1-1 Personnel Code of Conduct was reviewed (35 times) in civilian police complaint investigations.
- ❖ Total of 98 APD employees were identified in complaints received during this reporting period, out of which 46 were Police Officer 1<sup>st</sup> class.
- ❖ 91 APD employees receiving complaints were White (Hispanic 46, Non-Hispanic 45) and 81 were Male.
- ❖ The youngest APD employee to receive a complaint was 19 years old while the oldest employee was 72 years old.
- ❖ 151 complainants were identified among complaints received. 7 out of those filed the complaint anonymously. There were 60 Male complainants, 57 Female complainants and 34 were unidentified gender. Youngest complainant was 22 years old and the oldest was 79 years old.
- ❖ 31% of complainants were White while 43% did not report on race. 29% were Hispanic, 23% non- Hispanic while 48% citizens did not report on their ethnicity.
- ❖ Majority of the complainants were Heterosexual (approx. 34%), while a significantly larger number (59%) did not report on their sexual orientation.
- ❖ 14 complainants stated that they experience mental health issues while 60 did not identify their Mental health status. The majority, 78 complainants reported they have no mental health issues.
- ❖ 48% complainants stated they do not struggle with homelessness while 10% reported they struggle with homelessness. 42% did not report on this information.
- ❖ 52% complainants stated they were not homeless when the interaction with APD occurred while 6% stated they were homeless at the time of the incident. 42 % again did not report on this information.
- ❖ 72 Serious Use of Force/Level 3/OIS incidents were identified in IAFD section of IA Pro database.

## Introduction

The Civilian Police Oversight Agency (CPOA) is an independent Agency of the City of Albuquerque and is neither part of the City government or the City Council. The CPOA consists of the Board (CPOAB) and an Administrative Office (CPOA or “Agency”) led by the Executive Director. The CPOA receives, investigates, and reviews complaints and commendations submitted by community members concerning the Albuquerque Police Department (APD). As defined in the oversight ordinance section (§ 9-4-1-2), the purpose of the CPOA is to:

- (A) Foster and perpetuate policing policies and practices that effectively maintain social order and which at the same time foster mutual trust and cooperation between police and civilians;*
- (B) Ensure that the civilian police oversight body functions as independently as possible from the executive and legislative branches of government of the City of Albuquerque;*
- (C) Provide civilians and police officers a fair and impartial system for the investigations and determinations on civilian police complaints;*
- (D) Gather and analyze information, reports, and data on trends and potential issues concerning police conduct and practices and the related impacts on the community and individuals; and*
- (E) Provide input, guidance and recommendations to the City Council, the Mayor and the Chief of Police for the development of policy for the Albuquerque Police Department.*

The CPOA is mandated by the Oversight Ordinance (§ 9-4-1-10) to regularly inform the Mayor, the City Council and the Public by submitting written semi-annual reports. The information provided in this report is for period beginning January 1<sup>st</sup>, 2020 through June 30<sup>th</sup>, 2020. This report is divided into the following sections:

- I. Complaint Details
- II. Employee and Complainant Demographics
- III. APD Serious Uses of Force Incidents
- IV. Public Outreach
- V. CPOA/Board Policy Activities, Policy Recommendations provided to APD & Legislative Amendments to Oversight Ordinance and Policies and Procedures

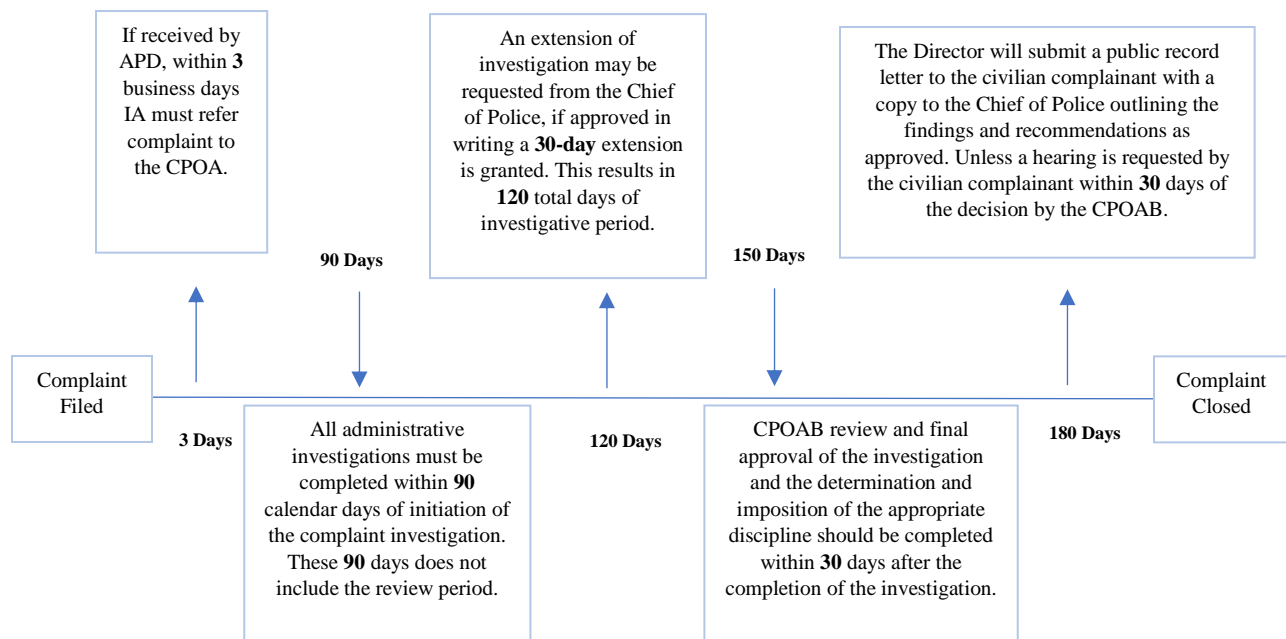
The first section, ‘Complaint Details,’ identifies the total number of complaints recorded, received/considered (assigned CPC numbers) during the first six months of 2020. This section covers complaint closure timelines, complaints source, the number of complaints by city council districts and number of complaints received and closed compared to the previous years. Furthermore, the section provides information related to the SOPs reviewed by investigators for complaints closed, identifies the finding/disposition of complaints as well as CPOAB review of non-concurrences on letter/memos by the Chief as required by the ordinance.

The second section, ‘Employee and Complainant Demographics,’ reports demographic information on both APD employees and the complainants. The information includes gender and race of employees involved, their rank, assigned bureau and division, median age, and also identifies number of employees involved in repeated complaints. With regard to the information about the complainants, this report provides data on their gender, race and ethnicity, sexual orientation, housing and mental health status and also reports on whether citizens opted for mediation when they filed complaints with the Agency.

The third section ‘APD Serious Use of Force Incidents’ will provide a snapshot of total number of Level 3 force incidents that occurred during the first half of 2020. Section four will highlight Outreach Initiatives undertaken by the CPOA/Board during this reporting period. The final section highlights ‘Board Policy Activities, Policy Recommendations given to APD and Board recommendations for Amendments to the Oversight Ordinance and Policies and Procedures governing the CPOA/Board.

As of March 18<sup>th</sup>, 2020, Mayor Tim Keller declared Public Health Emergency for the City of Albuquerque due to the novel coronavirus (COVID-19). CPOA has been operational in modified capacity during this time which significantly impacted Agency's processes. Some of the processes impacted by these included limited in-person intake of complaints, case investigations process while working remotely, inability to conduct certain interviews for both officers and complainants and shift from in-person to online zoom meetings for the CPOA as well as Board public meetings. As a result, there may be some differences in information and trends identified in this Semi-Annual Report compared to previous CPOA reports.

## Complaint Investigation Process



### *Complaint Timelines*

Civilian police complaints can either be filed with the police department or with the CPOA itself. If the complaint is filed with the police, they must refer the complaint to the CPOA within three business days. Once the complaint is received by the CPOA, there are seven days to assign the complaint to an investigator. The CPOA will mediate complaints, whenever appropriate and with agreement of both parties. During this reporting period, mediation program remained suspended and required new stipulations to be filed with the court for its reinstatement.

Since cases are not sent for mediation, the CPOA is responsible to open a case and assign it to an investigator. The assigned investigator will interview complainants/witnesses, obtain evidence, and interview the APD personnel involved, when appropriate and review other necessary materials. Once the investigation of the complaint is completed, the Executive Director of the CPOA will review the findings of the investigation to determine if there are any violations of Albuquerque Police Department Standard Operating Procedures (SOPs). The investigator may close the complaint following an initial (preliminary) investigation or the investigator may take it for a full investigation. A complaint can be resolved without a full investigation for the following reasons:



- The investigator verifies after initial review that it does not constitute misconduct by an employee,
- The investigator cannot minimally substantiate allegations,
- The policy violations are minor,
- The allegations are duplicative,
- There is lack of information to complete the investigation,
- The complainant requests a withdrawal of the complaint, or
- The complaint was lodged against someone who is not an APD employee.

Paragraph 191 of the Court Approved Settlement Agreement (CASA) stipulates “*All administrative investigations conducted by the Internal Affairs Division or the Civilian Police Oversight Agency shall be completed within 90 days of the 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. Review and final approval of the investigation, and the determination and imposition of the appropriate discipline, shall be completed within 30 days of the completion of the investigation. 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.*”

After receiving the complaint, the CPOA has a total of 120 days to complete the investigative process including request for 30-day extension from the Chief in order to be compliant with CASA requirement mentioned above. In some cases, citizens do not file complaint with the CPOA immediately after the incident, the body camera footage of the incident may not be available to CPOA investigators due to APD’s On-Body Recording Device (OBRD) non-evidentiary video retention policy of 120 days.

The CPOAB reviews the outcome of complaints during the case review Sub-Committee (CRC) meetings and final review during Board’s monthly meetings. During these monthly meetings, the CPOAB concludes whether they agree or disagree with the Agency’s finding. During this review

period, it is possible that the CPOAB will disagree with the Agency's finding and return the complaint to the CPOA for further investigation. The additional amount of time given to resolve the complaint resulting from CPOAB non-concurrence is not explicitly specified in the ordinance, however these cases are dealt with priority and are usually presented to the Board at the next scheduled public meeting.

Upon approval of the findings and recommendations by the CPOAB, the CPOA Executive Director as per the ordinance, must submit a public record letter to the civilian complainant and to the APD Chief of Police with the findings and recommendations. Upon receipt of the findings, the civilian complainant has 30 days to request an appeal of the CPOAB's decision. If no appeal is requested, the Chief of Police must notify the CPOAB and the original complainant of his/her final disciplinary decision. The Chief of Police retains sole authority to take disciplinary action against an APD employee for violations of the department's SOPs.

The complainant may disagree with the Chief's disciplinary findings and can file an appeal to the Chief Administrative Officer for the City of Albuquerque concerning the discipline issues. If the investigation exceeds nine months, the Executive Director of the CPOA must report the reason to the CPOAB. The Agency does not conduct criminal investigations. At any point during the investigative process, if the investigators at the Agency determine criminal allegations are associated with the civilian complaint, the administrative investigation is transferred to Internal Affairs Bureau.

There are six possible findings of complaints investigated by the CPOA which includes:

- **Sustained** – Where the investigation determines, by a preponderance of the evidence that the alleged misconduct did occur.
- **Not Sustained** – Where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred.
- **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.
- **Unfounded** – Where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

- **Sustained Violation Not Based on Original Complaint (Sustained/NBOOC)** – Where the investigation determines, by a preponderance of the evidence, that misconduct did occur that was not alleged in the original complaint but was later discovered during the investigation.
- **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.

## Data Source and Limitations

This report highlights complaints recorded (complaint intake) and considered (complaints received) along with the findings; demographic information of employees and complainants; and number of serious uses of force incidents. It also provides information regarding policy activities at APD identified during the reporting period; policy recommendations given by CPOA/CPOAB as well as the public outreach efforts. Data for this report is retrieved from the IA Pro (Internal Affairs record management database), Citizen Complaint data retained by CPOA, CPOAB meeting minutes and City of Albuquerque Human Resources. There are several limitations and missing data sets that will also be mentioned alongside different sections of this report.

Since the majority of the data is extracted from IA Pro database, it is important to note that CPOA is not an IA Pro administrator and only has limited control over data entry into the database. The CPOA is unable to certify the validity and reliability of APD Internal Affairs data. Since the complaint data were drawn from live databases, changes in coding, complaints specifications, allegations, employee/complainant and outcome numbers will fluctuate over time and are subject to revision. Addition of new information in cases later in the stage of investigative process may also lead to discrepancies between historical data presented in this report and data presented in previous CPOA reports.

## Section 1. Complaint Details

Civilian Police Oversight Agency is responsible for receiving and investigating all complaints involving APD employees and ensuring that the complaint process is accessible to all members of the community. Any person claiming to be aggrieved by actions of the Albuquerque police may file a complaint against any of its employees.

During the reporting period of January 1<sup>st</sup> 2020 to June 30<sup>th</sup> 2020, the CPOA recorded 254 complaints out of which 157 were assigned CPC numbers and are reported as complaints received in this report. Note that complaint investigations are an on-going process and so these numbers may change in future. 97 complaints did not get assigned a CPC number due to reasons including but not limited to:

- Duplicate complaints (already assigned a CPC number),
- Complaints not involving APD personnel (out of jurisdiction),
- Complaints at time of receipt were resolved through informal mediation,
- Driving complaints forwarded to officer supervisor for resolution,
- Lack of information to open an investigation and,
- Complaints forwarded to Internal Affairs due to aspect of criminal allegations.

Complaints received by each month (as depicted in the chart on the right) shows that the majority of complaints (approx. 33 %) were received in the month of January. The CPOA completed a total of 104 complaint investigations. 68 of those complaints were received and closed during this reporting period. Of all complaints that were closed, (approx. 57%) were closed administratively. Paragraph 184 of the CASA in part states “*Administrative closing or inactivation of a complaint investigation*

### Complaints Recorded

(Total complaints intake)

254

### Complaints Received

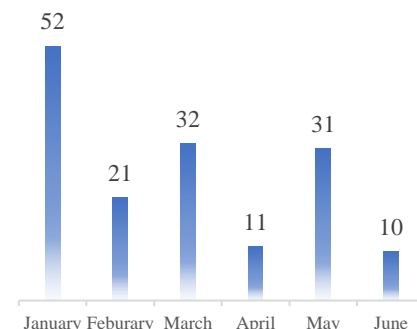
(Those assigned a CPC number)

157

### Complaints Closed

104

Data Source: IA Pro



*shall be used 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.”*

## Complaint Closure Timelines

Information pertinent to complaint investigations timelines for the current reporting period is highlighted in this section. As noted earlier, all complaints must be completed within 90 days unless an extension of 30 days from APD’s Chief is granted as stated in Paragraph 191 of the CASA. For this reporting period, 73 out of the 104 complaints were closed in less than 90 days. 8 complaints were closed between 91 – 120 days. Table 1 below provides a snapshot of all complaints closed by the Agency by total number of days taken for investigation completion.

Up to 90 days	91-120 days	121-150 days	151-180 days	181 days-9 months	More than 9 months	<b>Total</b>
73	8	3	3	9	8	<b>104</b>

*Table 1. Complaints Closure timelines*  
*Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020*

## Complaint Sources

Complaints received by the Agency can come through different sources. A complainant may file it in writing or over the phone. They can email, file online, send the complaint through regular mail, or fax the complaint. Complaint forms are available online, at all police sub-stations, libraries and community centers across Albuquerque - covering more than fifty locations. For the period of January 1<sup>st</sup> to June 30<sup>th</sup> 2020, out of the 157 complaints received, 63 reached the Agency through online self-reporting by citizens, 29 complaints were received via email, while 23 were received by the Agency through walk-ins at the office. Source for 6 complaints is missing in the IA Pro database mainly due to cases at ‘initial’ phase of the investigative process and the source is updated during the course of investigation. Table 2 below summarizes the source of all complaints that were received during the current reporting period.

Blue-team	CYFD	Email	Facsimile	Online-Self Reported	Online-Call in	Written-Walk in	Written-Faxed	Written-Interoffice Memo	Written-Mail	311	Missing
11	1	29	1	63	6	23	2	1	11	3	6

*Table 2. Complaints Source*

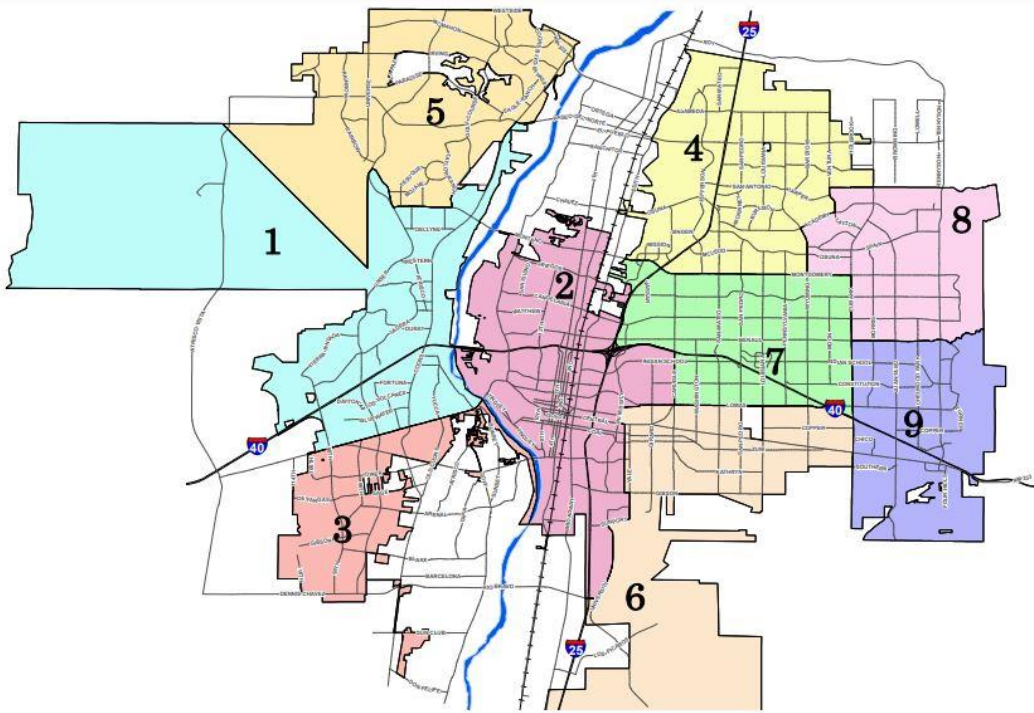
*Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020*

*CYFD: New Mexico Children, Youth, and Families Department*

*Blue Team is a program in IA Pro which allow Incidents (use-of-force, field-level discipline, complaints, vehicle accidents and pursuits) to be entered and routed through the chain-of-command for review and approval.*

## Complaints by City Council Districts

The information reported in this sub-section provides a list of complaints received for all incidents that occurred during this reporting period by City Council Districts. Of the total 9 City Council Districts in Albuquerque, most complaints were received for incidents which occurred in District 2 and District 6, with 31 and 22 complaints respectively. CPOA did not receive any complaint for police misconduct incident for City Council District 3. Figure 1 below provides a snapshot of all City Council districts in Albuquerque.



*Figure 1. City of Albuquerque City Council Districts Map*

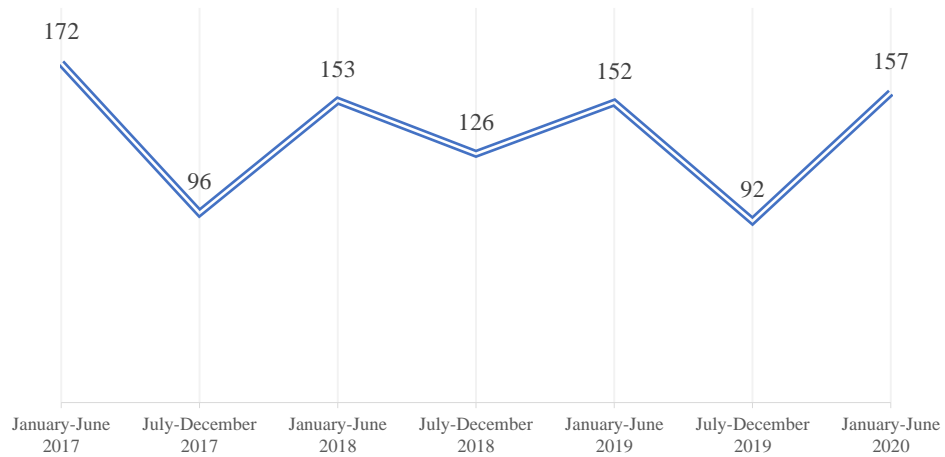
Several citizens who filed complaints did not provide information regarding incident location. Some complaints were filed against employees for reasons not involving a physical incident, such as conduct by an employee over the phone that lead to a large number of missing information. These are shown as ‘Not Reported/Missing’ in the table below. 7 complaints received during this reporting period were ‘Out of Area’ suggesting the incident occurred out of City Council’s jurisdiction. Table 3 below provides a snapshot of all complaints received by CPOA.

City Council Districts	Number of Complaints
1	6
2	31
3	0
4	8
5	3
6	22
7	14
8	4
9	9
Out of Area	7
Not Reported/Missing	53
<b>Total</b>	<b>157</b>

*Table 3. Complaints received by City Council Districts*  
*Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020*

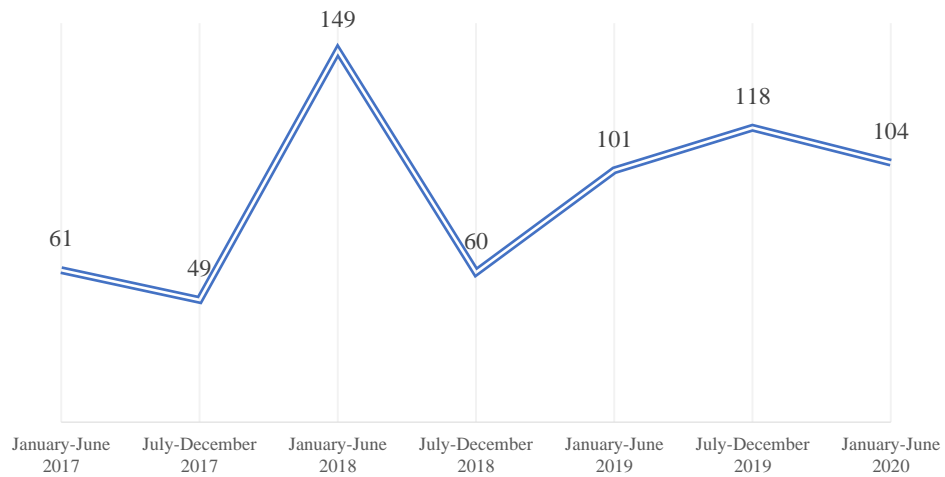
## Complaints Trend

### COMPLAINTS RECEIVED



*Figure 2.1. Civilian Police Complaints received trend*  
Data Source: IA Pro- January 1<sup>st</sup> 2017-June 30<sup>th</sup> 2020

### COMPLAINTS CLOSED



*Figure 2.2. Civilian police complaints closed trend*  
Data Source: IA Pro- January 1<sup>st</sup> 2017-June 30<sup>th</sup> 2020



Figure 2.1 and 2.2 above presents the number of complaints received and closed by the Agency during the first half of 2020 compared to the last three years. This comparative analysis is helpful in understanding a few things. First, more complaints received might suggest an occurrence of more police misconduct incidents or fewer complaints can indicate an improvement in officers' conduct. An increase in complaints received can also suggest that citizens are now more aware of the complaint process compared to previous years leading them to file more complaints, which can be attributed to better community outreach by the Agency.

Secondly, a comparison of complaints closed with previous years will identify why more or fewer case investigations are completed in the current period. The information is useful to understand if there is a need to have more investigators due to fewer complaint closed and will also reflect on the efficacy of the investigators if more case investigations are completed. However, it is important to note that some investigations generally take more time than others due to factors including but not limited to high number of associated allegations and/or involvement of more employees, incident occurred long time ago. Nevertheless, trends highlighted here will help educate the policy makers to make conversant decisions.

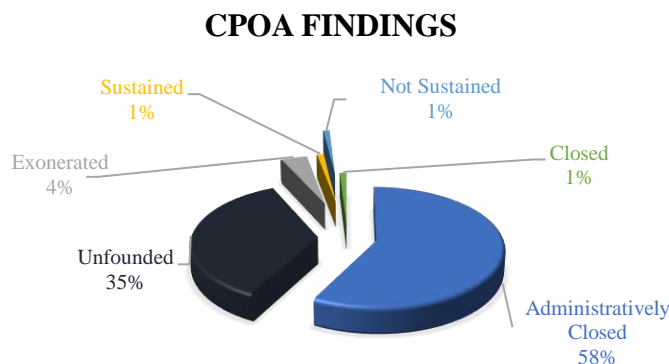
157 complaints were received during the current reporting period compared to 92 complaints that were received during the second half of 2019. For the first six months of 2018 and 2019, the Agency received 153 and 152 complaints respectively as seen in figure 2.1 above. The trend for complaints received suggest that the Agency receive more complaints during the first half of the year compared to the second half. As shown in figure 2.2, the Agency completed case investigations for 104 complaints during this reporting period. Complaints closed for this reporting period has seen a slight decrease compared to 118 complaints which were closed in the last reporting period.

There has been an overall increase in complaint closure by the Agency from the year 2017 in which the Agency closed 110 complaints in the whole year compared to 104 complaints that are closed in the first half of 2020 alone.

## Complaints Findings/Disposition

Following the completion of investigation for civilian police complaints, the CPOA recommends one of several disposition/findings. These include: Unfounded (investigation determined that misconduct did not occur), Sustained (alleged misconduct did occur), Not Sustained (unable to determine by preponderance of evidence whether misconduct occurred), Exonerated (alleged conduct occurred, but did not violate APD policies, procedures or training), Administratively Closed (minor policy violation, duplicative allegations, or cannot conduct investigation due to lack of information in the complaint) and Sustained NBOOC (finding not based on original complaint).

It is important to note that there can be more than one allegation and more than one officer in one civilian police complaint. For instance, if there are 3 allegations in one complaint, there will be 3 findings for each allegation (e.g. Sustained, Unfounded & Admin Closed). For such case, the findings in this report will be reported as ‘sustained’ which is the highest disposition as reported in IA Pro database. Figure 3 below illustrates findings by the CPOA for all complaints closed during January 1<sup>st</sup> to June 30<sup>th</sup> 2020. Out of 104 closed complaint investigations, 60 complaints were closed administratively, 37 were unfounded, 4 exonerated and 1 sustained and not sustained finding respectively. Figure below shows the percentages of all CPCs closed with highest disposition among the allegations.



*Figure 3. CPOA findings for Complaints Closed*  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020

Table 4 below provides a snapshot of all administratively closed cases and identifies why this finding was assigned. Nearly 35% of all cases were administratively closed due to ‘Lack of Information’.

Reason for Admin Closure	Count
Duplicative Complaint	6
Lack of Information	21
No Jurisdiction	11
No SOP Violation	12
No Officer Identified	3
Mediation	2
Admin Closed	5
<b>Total</b>	<b>60</b>

*Table 4. Administratively closed cases, findings reason  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020*

## SOPs Reviewed for Complaints Closed

This sub-section identifies allegations associated with complaints that were closed by the Agency during this reporting period. Since administratively closed cases comprise 58% of the total cases closed and no allegations were identified for these findings, it is not possible to provide information regarding SOPs violated. For this reporting period, we can only identify SOPs that were reviewed for 42% of the investigative cases with the disposition other than administratively closed. With the help of this data, we can identify the SOPs which were violated the most.

17 APD SOPs were reviewed 88 times for 42 cases with disposition other than administratively closed. SOP 1-1 (Personnel Code of Conduct) was reviewed 35 times while SOP 2-60 (Preliminary and Follow-up Criminal Investigations) came under review 11 times in civilian police complaint investigations for this reporting period. Table 5 below lists all 17 SOPs that were reviewed, times they were reviewed along with the dispositions.

SOP Number & Title	Times Reviewed	Disposition
1-1 Personnel Code of Conduct	35	34 Unfounded, 1 Exonerated
2-16 Records	2	Unfounded
2-8 Use of OBRD	2	Unfounded
3-13 Officer's Duties and Conduct	9	6 Exonerated, 3 Unfounded
2-48 Towing and Wrecker Services	2	1 Unfounded, 1 Exonerated
2-60 Preliminary and Follow-up Criminal Investigations	11	10 Unfounded, 1 Not Sustained
1-3 Grooming Standards	1	Unfounded
2-52 Use of Force-General	1	Unfounded
2-54 Intermediate Weapon Systems	2	Unfounded
Special Order	1	Sustained
2-5 Use of Police Vehicles	1	Unfounded
2-46 Response to Traffic Crashes	1	Unfounded
2-71 Search and Seizure Without a Warrant	7	Unfounded
2-80 Arrests, Arrest Warrants, and Booking Procedures	5	Unfounded
1-4 Biased Based Policing/Profiling	6	Unfounded
4-25 Domestic Violence	1	Unfounded
2-73 Submission of Evidence, Confiscated Property, and Found Items	1	Unfounded

*Table 5. SOPs reviewed in CPOA Investigations*  
*Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020*

## Chief Non-Concurrences

This section identifies instances when Chief of Police did not concur with CPOA's proposed findings or disciplinary recommendations. During this reporting period, the CPOA/CPOAB received two non-concurrence from the Chief of Police. The copy of the memo/letters for both CPC 144-19 and CPC 122-18 can be seen below.

Chief's Non-Concurrence Memorandum CPC 144-19



Timothy M. Keller  
Mayor

City of Albuquerque  
Albuquerque Police Department



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.

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.

*Michael J. Geier*  
Chief Michael J. Geier

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&S	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

Chief's Non-Concurrence Letter CPC 122-18

CITY OF ALBUQUERQUE

Albuquerque Police Department



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



VIA CERTIFIED MAIL

Magdalena Romero  
300 Homesite Ln NW  
Albuquerque, NM 87114

CPC 122-18

Dear Ms. Romero:

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.

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.

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.

Sincerely,

*Michael J. Geier*

MICHAEL J. GEIER  
Chief of Police

MJG/MV/jb

cc: Internal Affairs Unit  
Civilian Police Oversight Agency

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT <small>Domestic Mail Only</small>	
For delivery information, visit our website at <a href="http://www.usps.com">www.usps.com</a> ™.	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee <small>(Receiptment Required)</small>	
Restricted Delivery Fee <small>(Receiptment Required)</small>	
Total Postage & Fees	\$

2870 0003 8167 8599



## Section II. Employee and Complainant Demographics

Section § 9-4-1-10-B of the ordinance requires reporting of demographic information pertinent to subject officers and complainants in the semi-annual reporting. This section is divided into two sub-sections. The first sub-section will provide information for APD employees identified in complaints received while the second sub-section reports on demographics of complainants identified in complaints received from January 1<sup>st</sup> 2020 to June 30<sup>th</sup> 2020.

### Employee Demographics

Complaints can be filed against both sworn and non-sworn employees of Albuquerque Police Department. A total of 98 APD employees were identified in complaints received during this reporting period. Out of 157 total complaints received for the reporting period, 77 provided information regarding sworn and non-sworn APD employees while 80 complaints did not identify involved employees in the IA Pro database. Of those 80 complaints that did not identify employee information, 36 were ‘Administratively Closed’, 35 are ‘Active Investigations’, 5 are in ‘Initial’ phase of investigative process, 2 complaints were ‘Forwarded to IA’ and 2 were ‘Suspended’ due to officer’s unavailability. Note that one complaint can have more than one employee involved, we might have information of one employee in a particular complaint but that complaint might have missing information about other employees.

As required by the Oversight Ordinance and the CASA, this sub-section reports on demographic characteristics of APD employees who were identified in Civilian Police complaints received during this reporting period. The information reported here provides a snapshot of the employee’s rank; includes information on employees by the number of times they were involved in complaints received, assigned bureau and division, race, gender and median age. Table 6 below illustrates the total number of APD employees by their ethnicity and gender as of August 2020.

<b>Sworn-Patrol Officers &amp; Officials</b>	<b>Female</b>	<b>Male</b>	<b>Total</b>
White	52	410	<b>462</b>
Hispanic or Latino	74	300	<b>374</b>
Black or African American	0	17	<b>17</b>
American Indian or Alaska Native	1	8	<b>9</b>
Asian	0	8	<b>8</b>
Native Hawaiian or Other Pacific Islander	0	3	<b>3</b>
Two or More Races	1	7	<b>8</b>
Other	0	0	<b>0</b>
<b>Non-Sworn Employees</b>			
White	124	104	<b>228</b>
Hispanic or Latino	195	115	<b>310</b>
Black or African American	3	6	<b>9</b>
American Indian or Alaska Native	16	4	<b>20</b>
Asian	3	5	<b>8</b>
Native Hawaiian or Other Pacific Islander	1	2	<b>3</b>
Two or More Races	7	7	<b>14</b>
Other	0	0	<b>0</b>
<b>Total</b>	<b>477</b>	<b>996</b>	<b><u>1473</u></b>

*Table 6. APD Employee Demographics as of August 2020  
Data Source: City of Albuquerque, Human Resources*

## Employee Rank/Title

As mentioned earlier, 98 employees were identified in complaints received during the current reporting period. Among those, 46 had the rank of Police Officer's 1<sup>st</sup> class and 21 were Senior Police Officer 1<sup>st</sup> class. Figure 4 below provides information regarding all employee's rank who are identified in complaints received at the time of incident.



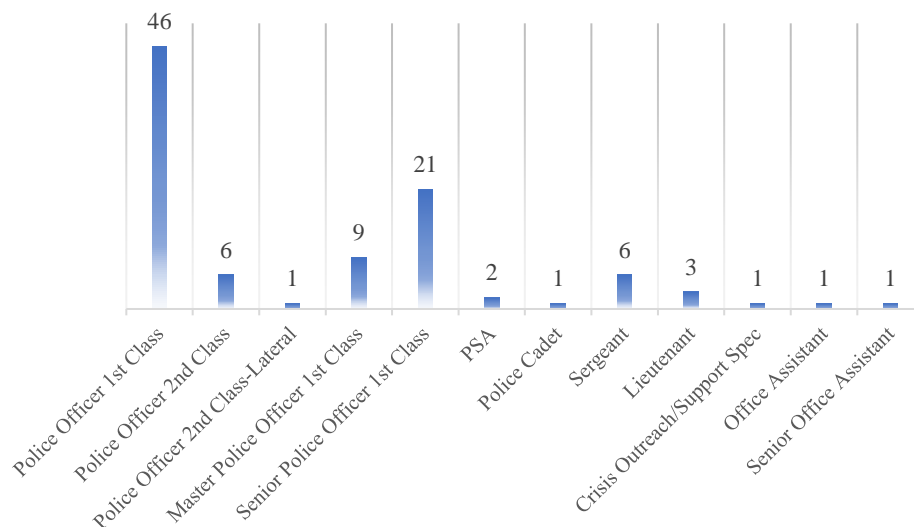


Figure 4. Employees Rank  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020

## Employees Involved in Complaints Received

This sub-section identifies the number of complaints received and the number of employees involved in those complaints. As already highlighted, of the total 157 complaints received during the reporting period, 77 provided information about involved employees. As seen in table 7.1 below, 60 complaints identified involvement from one APD employee. 12 complaints identified two employees and 2 complaints received during this period concerned 3 employees.

Number of Complaints	Number of involved Employees
60	1
12	2
2	3
2	4
1	5

Table 7.1 Complaints Received & Employees involved  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020

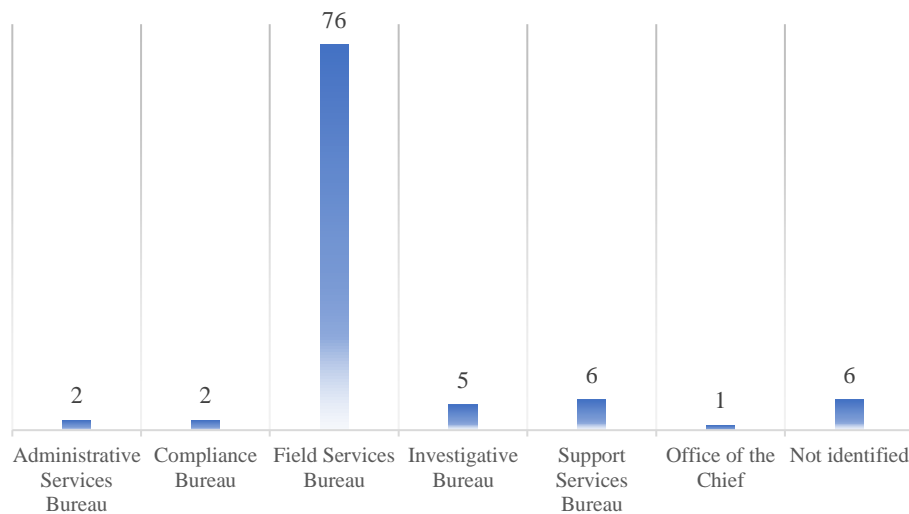
This sub- section also reports on the number of times APD employees were involved in complaints received during this reporting period. Table 7.2 below provides snapshot of employees involved and times they were involved in the complaints received.

Number of Employees	Times Involved
93	1
5	2

*Table 7.2 Times Employees involved*  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020

### Employees Assigned Bureau

This sub-section provides information pertinent to the bureau of involved employees at the time when a misconduct complaint was received against them by the Agency. There are five bureaus in APD which includes Compliance, Field Services, Investigative, Support Services and Administrative Services. There are data issues in IA Pro database that identifies aviation (part of administrative service bureau) and special operations (part of field services bureau) and Chief's office as separate bureaus. Figure 5 highlights all the employees who were the recipient of complaints by their assigned bureaus. Note that 6 employees did not have information regarding their assigned bureau in the IA Pro database.



*Figure 5. Employee's Assigned Bureau*  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020

## Employees Assigned Division

This sub-section provides information related to employee's division at the time when a misconduct complaint was received against them by the Agency. Total of 20 employees who received complaints were assigned to Southeast area command division while 19 employees from Valley area command division were identified in complaints received during this reporting period. Further breakdown of employees by their assigned division at the time when complaints were received against them by the Agency is illustrated in figure 6 below. Note that 6 employees did not have information regarding their assigned division in the IA Pro database.

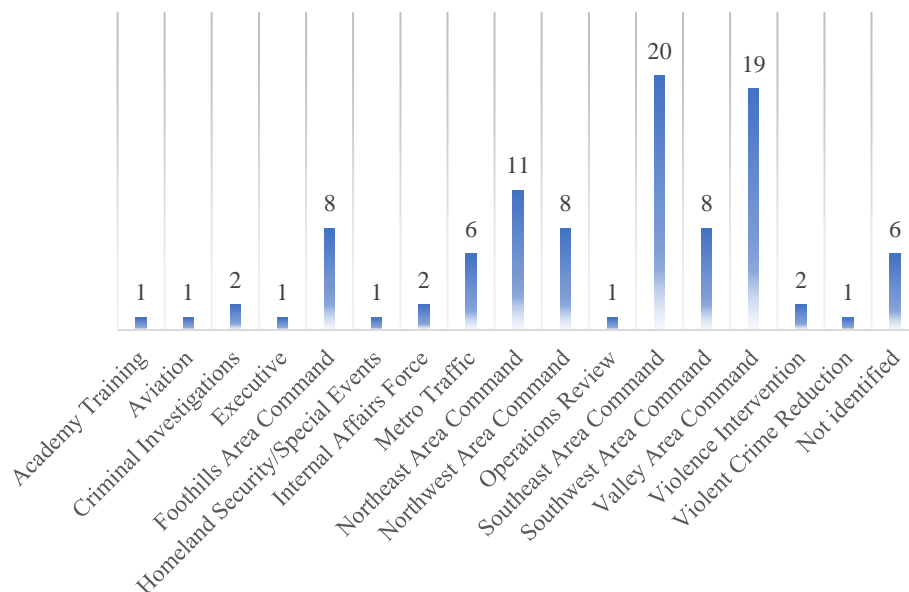
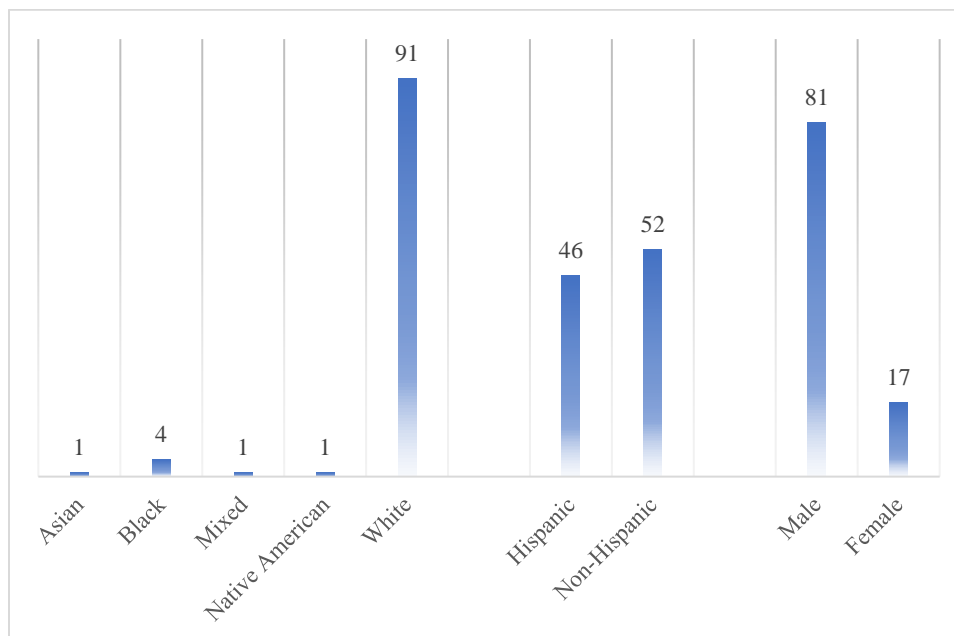


Figure 6. Employee's Assigned Division  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020

## Employees Race, Ethnicity and Gender

The CASA and the Oversight Ordinance require capturing demographic information of APD employees who were the recipient of civilian police complaints. Reporting on such information help identify the trends and biases of employees originating specifically due to the race and gender and will also help CPOAB to provide policy and procedural recommendations to APD. As seen in the figure 7, approximately 92% of APD employees

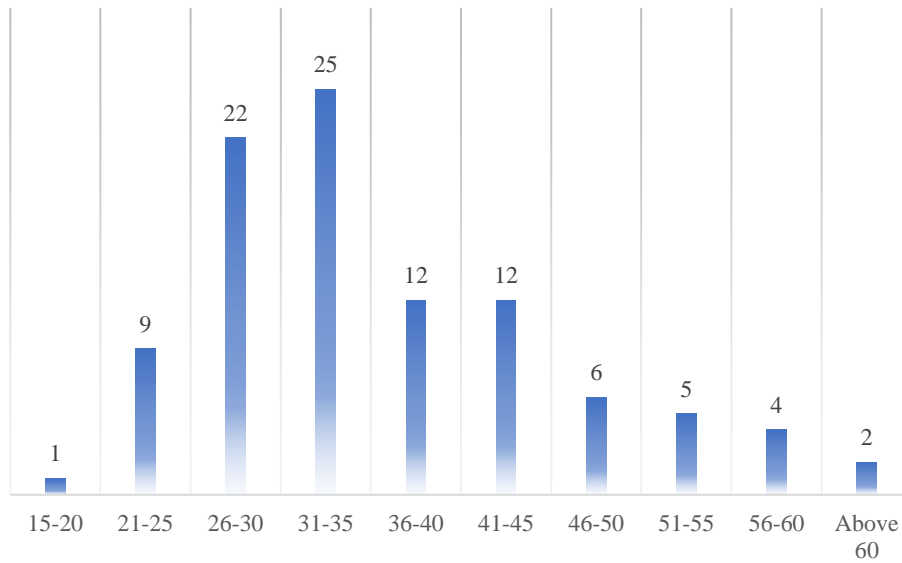
identified in complaints received were of White race and approximately 82% of them were Male. Of the total 91 White employees, 46 were White (Hispanics) and 45 were White (Non-Hispanics).



*Figure 7. Employee's Race, Ethnicity & Gender*  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020

## Employees Median Age

The median age range of all employees who were identified in misconduct complaints received during this reporting period is illustrated in the figure 8 below. 25 employees were in the age group of 31-35 years while 22 were between 26-30 years old at the time of the incident. The youngest APD employee receiving complaint was 19 years old while the oldest employee was 72 years old at time when the incident occurred. Figure 8 below provides information regarding all employees' age who were identified in civilian police complaints.



*Figure 8. Employee's Median Age*  
*Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020*

## Complainant's Demographics

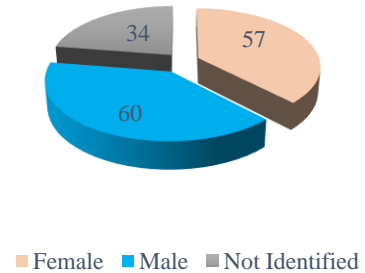
This section identifies complainant's demographic information for this reporting period. To fulfill the CASA requirement, the Agency amended its complaint forms in order to capture additional data for involved complainants. For the current reporting period, the Agency received 157 civilian police complaints involving 151 complainants. 7 out of those filed a complaint anonymously. The data provided in this section provides information on complainants' gender, race, ethnicity, sexual orientation, mental health status, median age, housing status (homeless), and also reports on whether complainants opted for mediation when they filed complaints with the Agency.

During this reporting period, 6 complainants filed complaints with the Agency twice. 1 complainant was identified as an APD officer. The source of data reported in this section is from the complaint form 'Optional Demographic Section'. Note that information reported in this section mirrors the information reported by the citizen in the complaint form. The complainant might say they do not have mental health issues in the complaint, but the officer later determined that they had mental health issues. The information here will state 'No' mental health issues as stated by the complainant on the complaint form. Some data is not reported by complainants regarding the demographic characteristics which will be highlighted alongside each sub-section.

Several complainants did not provide information about sexual orientation or information related to mental health issues. Some complaints were received via direct email, blue team or in written memorandum by the Agency which does not have any demographic information regarding complainants. This caused a significant large number of missing information. Another reason for missing information is due to old complaint forms which did not capture all the information as required in the new complaint form. Notably, some complaints are filed by citizens on behalf of other individuals. Demographic information captured may not have information of the actual complainant and may have information of those submitting the complaint form. Sub-sections below highlight demographic information for complainants from January 1<sup>st</sup> 2020 to June 30<sup>th</sup> 2020.

## Complainant Gender

This sub-section provides information regarding the gender of complainants who filed complaints during this reporting period. Of the total 151 complainants, Male complainants were 60 compared to 57 Female complainants. 2 anonymous complainants identified themselves as male while 5 did not identify their gender. During this period, 34 complainants did not record information about gender when the complaint was filed with the Agency.



## Complainant Race & Ethnicity

Data on race and ethnicity will help identify problems and population at risk, which is crucial information for policymakers in making effective decisions. The data will also help understand the underlying causes of problems faced by specific groups of population due to police misconduct. It will help us understand if police officers are complying with civil rights law and will also help detect evidence of discrimination against certain population segments. As seen in figure 9, white complainants comprised of the largest percentage (approx. 31%). 43% of the complainants did not report on race while submitting complaint with the Agency. Individuals with Hispanic ethnicity has slightly large percentage (approx. 29%) compare to non-Hispanic (approx. 23%) with (48%) complainants not identifying information about ethnicity.

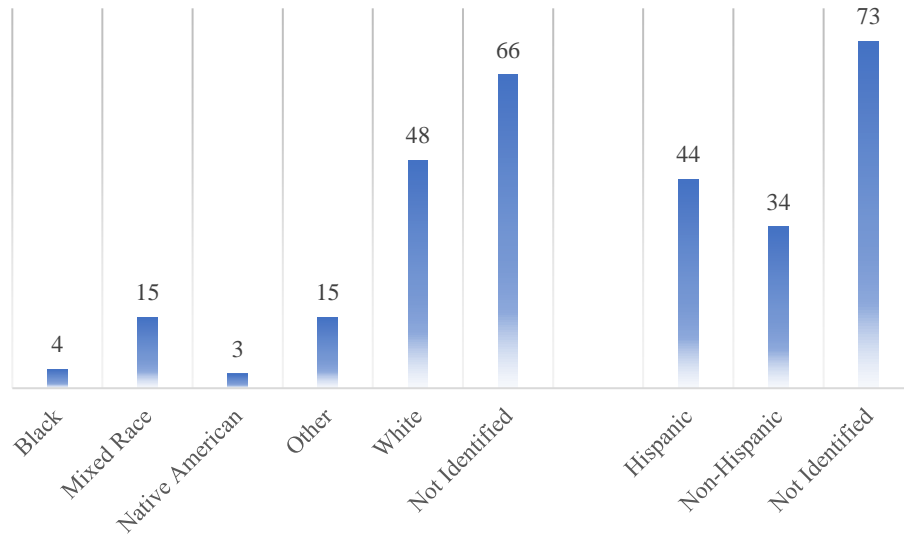
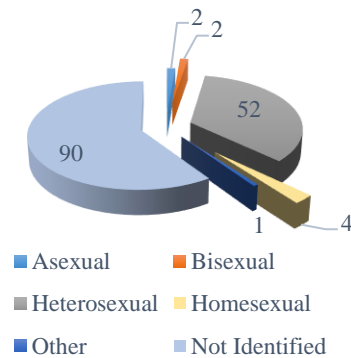


Figure 9. Complainant Race & Ethnicity  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020

## Complainant Sexual Orientation

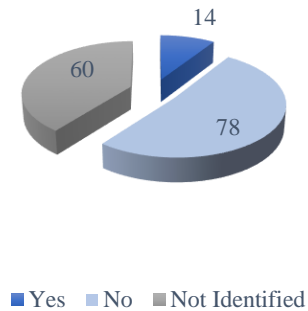
Per the CASA agreement, DOJ mandated the Agency and APD to collect data regarding the sexual orientation of citizens to identify possible biases among specific population segments. Discrimination and harassment by law enforcement based on an individual's sexual orientation hinders the process of effective policing, breaks community trust and prevents officers from serving and protecting communities. For the complaints received during this period, approximately 34% of the complainants were heterosexual while a significantly larger number (approx. 59%) of the complainants did not provide information regarding their sexual orientation.





## Complainant Mental Health Status

This sub-section provides information pertinent to mental health status of complainants. Paragraph 175 of the CASA states “APD and the Civilian Police Oversight Agency 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”. The CPOA



updated the complaint form to comply with the Department of Justice requirements by adding questions to determine if complainants experience mental health issues or struggled with homelessness. For this reporting period, 14 complainants stated they were experiencing mental health issues while 78 reported ‘No’ mental health issues. 60 complainants did not identify whether they experience mental health issues. 1 complainant who filed two complaints with the Agency stated ‘yes’ and ‘no’ to question asking if they experience mental health issues.

## Complainant Housing Status

Albuquerque has a significantly large segment of homeless population. Police engage with such populations on a daily basis. DOJ findings concluded that APD tended to use excessive force against the homeless population group and have reiterated in the CASA to capture information regarding complainants’ housing status. The information reported in this sub-section identifies if the complainant struggle with homelessness as well as if they were homeless at the time of interaction with the APD. As seen in figure 10 below, 48% of the individuals who filed complaints with the Agency stated they do not struggle with homelessness while 10% reported they struggle with homelessness. 42 % did not report on this information. 51% of the complainants stated they were not homeless when the incident occurred while 6% stated they were homeless at the time of incident. Again, a significantly large number, 42% did not report on this information.

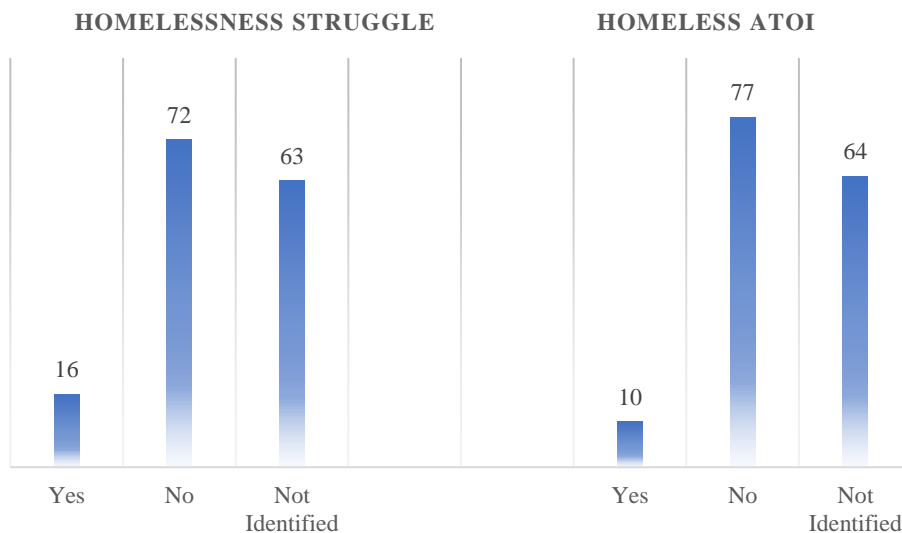
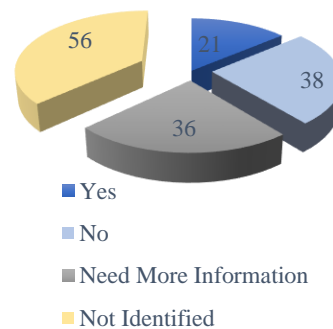


Figure 10. Complainant Homelessness Status  
Homeless ATOI (At time of incident)  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020

## Complainant Interest in Mediation

One of the first questions in the Agency's complaint form asks individuals if they are interested in resolving the dispute through mediation. The data reported in this sub-section is retrieved from the complaint forms submitted by complainants during this reporting period. The form gives the option to the complainant to indicate if they are interested or not interested in mediation or would like more information on the process. Some complainants choose to simply not respond to the question. This data only highlights the complainant's perspective and records their interest in mediation.

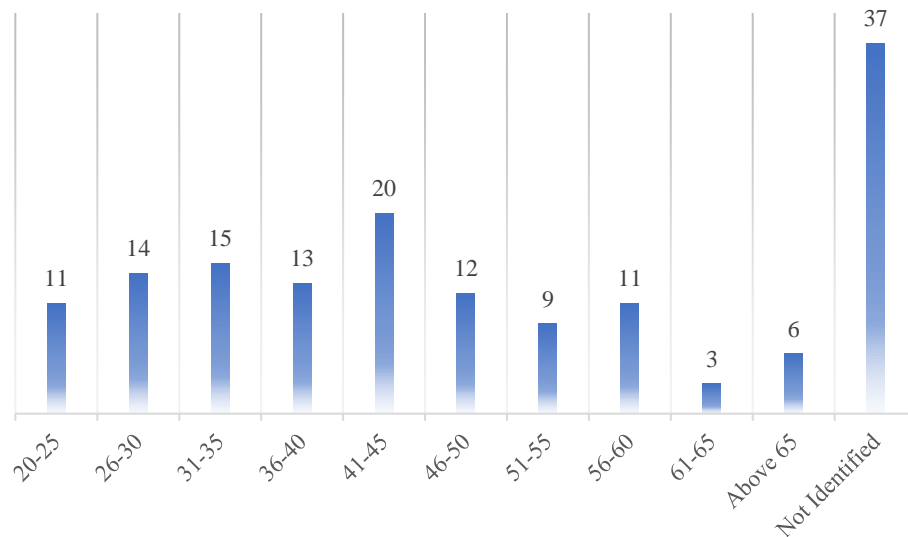


The mediation program was initiated by the Agency for a duration of six-months in order to test its effectiveness but did not produce any favorable results leading to temporary suspension of the program. The parties discussed expanding it to a year, but that required new motions and stipulation which haven't been filed yet. Information reported here will be useful in future once the program is reinstated. During this period, 60% individuals who

answered the question about mediation in the complaint form reported they are either interested in mediation or need more information about the process.

### Complainant Median Age

This sub-section highlights the median age of complainants who filed complaints during this reporting period. 114 complainants reported on their age when submitting complaints with the Agency while 37 individuals did not report their age. The youngest complainant was 22 years old while the oldest was 79 years old. Of those complainants who reported their age, the largest percentage of complainants (approx. 18%) were between the age group of 41 to 45 years old. Figure 11 below provide details about complainants' age group for this reporting period.



*Figure 11. Complainants Median Age*  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020

### Section III. APD Serious Uses of Force and Officer Involved Shooting Incidents

The information underlined in this section will report on the number of Serious Use of Force (SUOF)/Level 3 and Officer Involved Shooting (OIS) cases that were received and investigated by Internal Affairs Force Division during this reporting period. There was a total number of 72 SUOF/Level 3 force incidents which includes 6 Officer Involved Shooting Incidents from the period beginning January 1<sup>st</sup> 2020 to June 30<sup>th</sup> 2020. Sub-sections below provide detailed information regarding SUOF and OIS incidents.

Starting January 11<sup>th</sup> 2020, force cases are now categorized by three levels at IAFD. SOP 2-52 (Use of Force-General) clearly outlines the list of all events which will be classified among these three levels. All Level 3 force incidents will be identified as Serious Uses of Force in this report. SOP 2-53-2-M define different level of force as:

- **Level 1 Use of Force:** Force that is likely to cause only transitory pain, disorientation, and/or discomfort during its application as a means of gaining compliance.
  - a. This includes techniques that are not reasonably expected to cause injury, do not result in an actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing).
  - b. Shows of force, including: pointing a firearm, beanbag shotgun, 40-millimeter impact launcher, OC spray, or ECW at an individual, or using an ECW to “paint” an individual with the laser sight or utilizing a warning arc. A show of force is reportable as a Level 1 use of force.
  - c. Level 1 use of force does not include interaction meant to guide, assist, or control an individual who is offering minimal resistance.

- **Level 2 Use of Force:** Force that causes injury, could reasonably be expected to cause injury, or results in a complaint of injury.
  - a. Level 2 use of force includes: i. Use of an ECW, including where an ECW is fired at an individual but misses; ii. Use of a beanbag shotgun or 40-millimeter impact launcher, including where it is fired at an individual but misses; iii. OC spray use including where it is sprayed at an individual but misses; iv. Empty-hand techniques (e.g., strikes, kicks, takedowns, distraction techniques, or leg sweeps); and v. Strikes and attempted strikes with impact weapons. This excludes strikes to the head, neck, throat, chest, or groin, with a beanbag shotgun or 40-millimeter impact launcher and strikes to the head, neck, throat, torso, or groin with a baton or improvised impact weapon, which are considered Level 3 uses of force.
- **Level 3 Use of Force:** Force that results in, or could reasonably result in, serious physical injury, hospitalization, or death.
  - a. Level 3 use of force includes: i. Use of deadly force; ii. Critical firearm discharges; iii. Use of force resulting in death or serious physical injury; iv. Use of force resulting in hospitalization; v. Strikes to the head, neck, throat, chest, or groin with a beanbag shotgun or 40-millimeter impact launcher and strikes to the head, neck, throat, torso, or groin with a baton or improvised impact weapon; vi. Use of force resulting in a loss of consciousness; vii. Police Service Dog bites; viii. Three or more applications of an ECW on an individual during a single interaction, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different officers; ix. ECW application on an individual during a single interaction for longer than 15 seconds, whether continuous or consecutive, regardless of the mode of application; x. Neck holds; xi. Four or more strikes with a baton or improvised impact weapon; and xii. Any Level 2 use of force against a handcuffed individual.

## Type of Force Used/Allegations

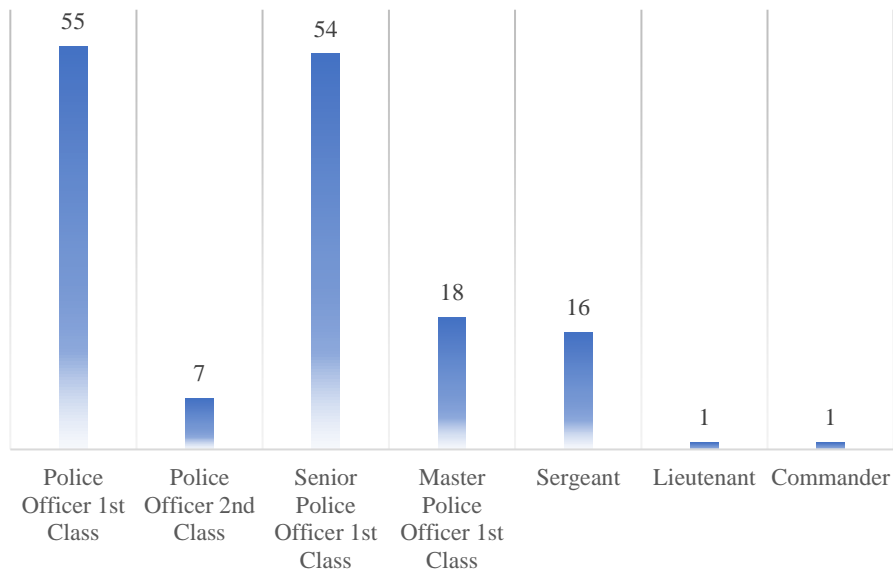
Among 72 SUOF/Level 3 force incidents, APD officers used force 371 times. Empty hand technique to control the subject was used 60 times which is the highest among all types. 68 out of 72 cases were within policy and 4 were out of policy. Out of policy suggests investigation determined officers did not use force in accordance with APD SOPs and violated the policy. Among 6 OIS cases, 5 were within policy and one was out of policy. Breakdown of force used by officers investigated by IAFD for all Level 3 use of force is highlighted in the table below.

Type of Serious Force Used	Times Used
K-9 Apprehension-Bite	16
Firearm- OIS	8
Empty Hand: Takedown	46
Empty Hand: Control	60
Empty Hand: Leg Sweep	3
Empty Hand: Strike	11
Tri Chamber	13
OC Vapor	8
OC Spray	1
Handgun: Pointing	16
Rifle: Pointing	27
ECW	21
ECW: Painting	3
ECW: Pointing	4
ECW: Miss	2
Resisted Handcuffing	56
Pain Compliance	10
40mm: Pointing	2
40mm CS Ferret	14
40mm OC Ferret	17
40mm	10
40mm: Miss	2
NFDD (Noise flash diversionary devices)	5
Authorized Deployment	6
Distributed Orders	2
Improvised Weapon	3
Ordered Force	2
PIT over 35mph	2
Beanbag: pointing	1
<b>Total</b>	<b>371</b>

Table 8. Type of Force Used in Level 3 UOF cases investigated by IAFD  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020

## Employees Involved

A total number of 152 APD officers were identified in all SUOF/Level 3 force incidents that occurred during this reporting period. 22 of these officers were identified in OIS incidents. Majority of the officers involved were Police Officer 1<sup>st</sup> Class (55) and Senior Police Officer 1<sup>st</sup> Class (54). Breakdown of employee's rank who were identified in these cases is illustrated in the figure 12 below.



*Figure 12. APD Employees Rank in SUOF/Level 3 cases*  
Data Source: IA Pro- January 1<sup>st</sup> 2020-June 30<sup>th</sup> 2020

There was one case that involved 12 officers, among those 10 showed force while 2 used force. One case involved 10 and another one involved 8 officers respectively. Four cases involved 7 officers. Among 72 SUOF/level 3 incidents, 122 officers were identified once. 14 officers were identified twice in such incidents, 6 officers got involved 3 times, 8 officers in four times and 2 officers were identified eleven times in SUOF/Level 3 force incidents during this reporting period.

## CPOAB Review of SUOF/OIS cases

During the February 13<sup>th</sup> 2020 Board meeting, 2 SUOF/OIS cases (C2019-0029519 and C2018-0110490) were presented to the Board for its review. Force Review Board (FRB) committee reviewed first SUOF case on December 5<sup>th</sup>, 2019 after approximately two years. As defined in the policy, CPOAB reviews these cases after the review by the FRB and the Chief of Police. The Board discussed the need for appropriate processes that can be implemented in order to review SUOF/OIS cases in future.

The Board also made a motion to include the review of entire investigative file and Garrity material for these two cases and directed Executive Director to report back. Director, Harness reported to the Board on the status of the pending nondisclosure agreement issue required by City Legal prior to reviewing complete investigative file and materials protected by Garrity for both Board and the Director. Chair of the Board requested legal counsel to pursue additional information on the pending non-disclosure agreement. No other SUOF/OIS cases were reviewed by the Board during this reporting period.



## Section IV. Public Outreach

Like many police oversight entities across the country in 2020, the Albuquerque Civilian Police Oversight Agency pivoted and adapted to their community engagement and outreach efforts to support the ever-changing needs of the community during a global pandemic.

In January, the CPOA Board had six active Board members, with three new members going through the onboarding process. Board member Joanne Fine, Chair of the Outreach Sub-Committee, successfully completed her second volunteer term in February. She served a total of five years on the Police Oversight Board. Board member Chantal Galloway succeeded member Fine as the new Chair of the CPOA Board Outreach Sub-Committee. There was a total of five Outreach Sub-Committee board meetings during this reporting period. Member Galloway's efforts focused on supporting the needs of the Agency and the Board, while also including the ongoing community engagements between the CPOA and the community policing councils (CPC's).

On behalf of the Agency, Director Harness and staff continued to lead and facilitate police oversight trainings and critical discussions with community groups including: the metropolitan court officers, APD Cadet class, 23<sup>rd</sup> Lateral APD Academy class, ABQ Healthcare for the Homeless, ABQ Interfaith, Human Rights special Board meetings, APD Forward community roundtable Amici stakeholders' meetings, West Central Community Development Group, and the Indivisible Nob Hill group. Executive Director also visited Austin for NACOLE academic symposium and executive leadership forum on March 5-7, 2020.

By March 12<sup>th</sup>, City employees were instructed to work from home as a result of the novel Coronavirus. During this time, the CPOA staff communicated daily to develop processes as to how the Agency would function in response to the Governor's declaration of a Public Health Emergency. Community engagement doubled during this time as many community members adapted to the "new normal", utilizing online tools like zoom to resume meetings. Although this was a major learning curve for everyone involved, it did highlight the community's passion, perseverance and dedication to the overall purpose and goals of police oversight and community policing.

As APD was dealing with their own set of challenges, respectfully, city leaders agreed that the Community Policing Councils (CPC's) would be transitioned under the CPOA Department, as a subdivision, also independent but accountable to the city. With the support of the DOJ, together the CPC's, APD, City Legal, the CPOA, the Mayor's Office and members of City Council worked diligently to create a new CPC Ordinance. This was significant because the CPC Ordinance formally created the sustainability needed to keep the initiative running strong. The new CPC Ordinance was Sponsored by Councilor Pena and after many meetings and many drafts, the Ordinance was signed in October 2020. As a result, the CPOA received funding to create two new positions to support the CPC's: a CPC Liaison and a CPC Liaison assistant.

Moving forward, beginning on May 28<sup>th</sup>, the City of Albuquerque experienced several weeks of protests in response to the death of Mr. George Floyd caused by police officers from the Minneapolis Police Department on May 25<sup>th</sup>. What started out as peaceful demonstrations, later lead to property damage, violence, and destruction throughout the greater downtown, university and Nob Hill areas. During this time, the CPOA and the CPC's became a leading outlet for community members to file their complaints and to voice their concerns regarding alleged APD misconduct. While the CPOA investigators worked tirelessly to gather and review evidence, many community members reached out to the CPOA to critically discuss APD's Use of Force policies and sought to better understand how the CPOA was directly involved in APD's policy recommendation processes. This led to an enormous amount of outreach, which then led to a significant increase in member applications to join the CPOA Board, as well as, the CPC's.

As the nation demanded, "defund the police", Mayor Keller quickly focused on allocating funds to support the needs of the Albuquerque community, thus creating the new Albuquerque Community Safety (ACS) Department. The ACS staff participated in many conversations with community members via the CPOA and the CPC meetings to gather input as the department was being developed. In addition, Director Harness and the CPOA Board successfully negotiated additional funds for the CPOA to increase investigative staff to support the growing demands of the community. In 2020, the Albuquerque Civilian Police Oversight created 4 new positions, growing the Agency from nine full-time positions to thirteen.

In light of all that happened in the first six months of 2020, it is clear to all, that the Civilian Police Oversight Agency and the Community Policing Councils will continue to be a very important piece of the puzzle as our community works together towards advancing constitutional policing and accountability for APD and the Albuquerque community.

## Section V. CPOA/Board Policy Activities, Policy Recommendations provided to APD & Legislative Amendments to Oversight Ordinance and Policies and Procedures

As defined in the oversight ordinance, a significant role of the CPOA/CPOAB is to provide policy guidance to the City Council, the Mayor and the Chief of Police. Ordinance requires the Board and the Agency to recommend policies related to training, programs, procedures and other matters to APD. The Oversight Ordinance stipulates “*The Board must dedicate a majority (more than 50%) of its time to policy recommendations*”. This section provides a snapshot of the activities that the Board dedicated to policy during the current reporting period. During the first year of its existence the Board created a set of operating procedures designed to meet their obligations per the ordinance. To serve this mission, the Board created Policy and Procedures Sub-Committee (PnP) that reviews APD policies and procedures, and makes recommendations on changes to ensure that compliance and consistency aligns with CPOA’s mission.

A critical function of the CPOA and the Board is to provide information regarding the APD policy processes to the public. This function is enhanced when CPOA/CPOAB participates directly in the policy development process at APD and reports the results to the public. CPOA and CPOAB recommendations are given serious consideration in the APD policy review process. Board members, the CPOA Executive Director and staff regularly participate in Office of Policy Analysis (OPA) meetings where new policies and modifications to existing policies are presented for review by APD subject matter experts. The members are presented with the opportunity to ask questions and recommend policy changes. Board members and CPOA Executive Director also attend the Policy and Procedures Review Board (PPRB) meetings to finalize and vote on SOPs before they reach the CPOAB, the independent monitor (if it is CASA related policy) and are sent to the Chief of APD for approval. The new Force Review Board (FRB) policy was also approved recently allowing the CPOAB to review Serious Uses of Force and Officer Involved Shooting cases.

Starting January 1<sup>st</sup> 2020 and ending June 30<sup>th</sup> 2020, CPOA/CPOAB were involved in numerous policy activities and several issues of interest were undertaken by the Board which included policy and/or procedural changes. These activities are listed below:

- List of Policies that were presented at Office of Policy Analysis (OPA) includes the following:

<b>Policies presented at OPA</b>
SOP 1-59 formerly 4-4 (Impact Teams)
SOP 2-38 formerly 4-13 (Daily Staffing and Briefing)
SOP 2-31 (Emergency Medical Services)
SOP 2-32 (Exposure to blood or bodily fluids)
SOP 1-22 (Automated License Plate Reader Program)
SOP 1-34 formerly 4-5 (Crime Prevention Unit)
SOP 2-25 (Bomb Threats and Bomb Emergencies)
SOP 2-12 (Pursuit Intervention Technique PIT)
SOP 2-77 (Forfeiture of Monies and Property)
SOP 1-13 formerly 5-3 (Armed Robbery Unit)
SOP 1-37 (Crisis Intervention Section)
SOP 2-11 (Use of Tire Deflation Device)
SOP 2-13 (Star Chase Pursuit Management)
SOP 2-19 (Response to Behavioral Health Issues)
SOP 2-23 (Use of Canine Unit)
SOP 2-70 (Execution of Search Warrants)

- List of Policies and forms that were presented at Policy and Procedures Review Board (PPRB) includes the following:

<b>Policies and Forms presented at PPRB</b>
SOP 2-8 (Use of On-Body Recording Devices)
SOP 3-30 (Line Inspections Process)
SOP 2-67 (Photographic Arrays and Field Identifications)

SOP 1-65 (Metropolitan Court Protection Unit)
SOP 2-82 (Restraints and Transportation of Individuals)
SOP 2-45 (Pursuit by Motor Vehicle)
SOP 2-34 (Notification of Significant Incidents)
SOP 2-33 (Right of Onlookers)
PD 1500 (Lead Intake Form)
PD 3116 (ERT Post Incident for Non-ERT Callout)
IAFD Forms
SOP 1-66 (Missing Persons Unit)
SOP 2-31 (Emergency Medical Services)
SOP 2-32 (Exposure to blood or bodily fluids)
SOP 2-68 (Interview and Interrogations)
SOP 1-87 (Scientific Evidence Division)
SOP 2-34 (Notification of Significant Incidents)
SOP 2-38 formerly 4-13 (Daily Staffing and Briefing)
SOP 1-59 (Impact Team)
SOP 1-34 formerly 4-5 (Crime Prevention Unit)
SOP 1-20 (Behavioral Sciences Section)
SOP 2-12 (Pursuit Intervention Technique PIT)
SOP 2-25 (Bomb Threats and Bomb Emergencies)
SOP 2-64 (Identification, Interviewing, and Detention of Witnesses to Crime)
PD 4709 (OPA Policy Owner Guide)
Form 1375 (Robbery Victim. Witness Question and Statement Form)
Uniform Patches
SOP 3-41 (Complaints Involving Department Policy and Personnel)

- City Council has been diligently working to fill the vacant board positions. Three new Board members Doug Mitchell, Cathryn Starr and Eric Nixon officially joined the Board at February 13<sup>th</sup> and April 9<sup>th</sup> 2020 Board meetings. Existing Board member Dr. William Kass got reappointed for the second term. Two other existing Board members Joanne Fine (term expired) and Leonard Waites left the Board during this reporting period leaving seven active members on the Board out of the total nine positions.

- During this reporting period, a reality-based training at the academy was scheduled for Board members to go through firearm training simulator. This training did not take place due to COVID-19 restrictions. Director Harness monitored tier-2 and tier 3 training at APD academy.
- IMR 11 period ended January 31<sup>st</sup> 2020. Director Harness also presented 4<sup>th</sup> quarter report to the City Council.
- On January 21<sup>st</sup> and January 22<sup>nd</sup> 2020, Director Harness attended meetings with Amici stakeholders, US Attorney, APD compliance.
- Board discussed the use of Legal Counsel. A motion was made by a Board member to restrict the use of Legal Counsel by individual members of the Board. Motion stated that no member shall contact or solicit the advice of Board contracted Legal Counsel without the consent of the full Board in a properly noticed public meeting. The motion was withdrawn by the Board member after discussion that the full policy on the use of Legal Counsel by the Board and its individual members is adopted and implemented by the Board. Board member made another motion to seek a report from Director Harness on historical use of contract Legal Counsel by the Board and the Agency. Motion was passed. Director Harness provided the report on legal billing to the members.
- New Sub-Committee appointments were made during this reporting period. Vice-Chair vacancy arise after the completion of Board member Joanne Fine's term to serve on the board at January Board meeting. The Board approved to leave the position vacant until Board and Sub-Committee elections in April 2020.
- Public court hearing status conference was held on February 11<sup>th</sup> 2020 for IMR 10 report. Several motions were made by the Board members which includes, authorizing chair to draft letter for the court and delegate Legal Counsel to contact appropriate stakeholders to discuss the plan presented to the court in reviewing IMR drafts, authorizing Legal Counsel to inform the court that Board through policy and procedures review Sub-Committee is working on clarifying members expectation of conduct and working to further develop a process to enforce member expectations and conduct. All motion passed unanimously.
- During January 9<sup>th</sup> 2020 meeting, motion was passed by the Board to direct Director Harness to invite the Chief of APD at regularly scheduled March meeting. The intent of

this invitation was to request a report from the Chief on department staffing practices and turnover, specifically high turnover rate among senior level staff.

- City Council added Public Safety Committee to their standing committees. It will be a monthly meeting for five council members. CPOA Executive Director will present updates regarding CPOA to the Councilors.
- Lieutenant Sanders who run the Juvenile section at Criminal Investigations Division at APD presented on Crimes Against Children Unit at February's Board meeting. Lieutenant gave presentation on the processes and provided a 'walk-through' of how investigations are conducted by their unit.
- IAFD presented on changes to use of force cases and updated the Board on how cases are now categorized in different levels. There has been changes in processes on how cases now are investigated. Level 1 cases are still investigated in the field by the supervisors and Level 2 and Level 3 are now investigated by IAFD. IAFD Commander Middleton noted "different levels are now adopted in order to have centralized unit to investigate use of force, to conduct consistent investigation and reporting use of force. Another reason is to free up officers in the field to focus more on protecting and serving then to conduct fellow officer's investigation. This measure will also bring consistency in the way investigations are conducted. IAFD also updated the Board that the entire department is now trained on how to conduct level 1 investigations and they now use a data form and an evaluative narrative form along with the guide which officers in the field can use to aid their investigation and to promote consistency. Officers are trained at the academy to shift the focus towards a step by step data collection process rather than open narrative process which improved timelines on conducting investigations.
- February 28<sup>th</sup> 2020, Executive Director along with CPOA staff met with the budget analyst for the initial budget hearing process and presented proposed budget for Fiscal Year 2021 to the Board. Hearings for the budget were held on March 4<sup>th</sup> 2020 with the Chief Administrative Officer.
- A complaint regarding Open Meetings Act (OMA) was received by the Board. Board during the February meeting made a motion authorizing the legal counsel to respond to OMA complaint.



- A motion was made by a Board member to direct legal counsel to continue to pursue a path in asking court to grant CPOA/Board participant status in the lawsuit. The motion passed.
- The City has filed a motion with the court for self-assessment under CASA paragraph 302 and 342 of the settlement agreement. The city asks the court to suspend the monitoring for those paragraphs which remain in operational compliance (over 95%). The idea is to allow city to focus on other portions of settlement agreement that are not in operational compliance. Board during February meetings made a motion to delegate Director Harness and Legal Counsel to prepare a statement that the Board will need more time to consider before deciding how to proceed when a self-assessment plan was adopted. Motion passed.
- First monthly Board Zoom meeting was held on April 9<sup>th</sup> 2020 due to COVID-19 restrictions.
- New Board Chairperson and Vice Chairperson were elected during April 9<sup>th</sup> 2020 Board meeting. Chair Chantal Galloway nominated Dr. William Kass to be the next chairperson of the Board. There were no other nominations. Dr. William Kass was elected as the Board chair by unanimous consent. Chair Chantal Galloway nominated Eric Olivas to be the next Vice-Chair of the Board. There were no other nominations and Eric Olivas was elected as the Board Vice-Chair by unanimous consent.
- Sub-Committee Chairpersons were also elected during April 9<sup>th</sup> 2020 Board meeting. Chantal Galloway was elected as Chair of the Outreach Sub-Committee. Dr. William Kass was elected as Chair of the Policy and Procedures Review Sub-Committee. Leonard Waites was elected as Chair of the Case Review Sub-Committee. Eric Olivas was elected as Chair of the Personnel Sub-Committee.
- Board by unanimous consent also designated Dr. William Kass to represent Board in reviewing APD policies and procedures at the Office of Policy Analysis and Policy and Procedures Review Board.
- Board member made a motion to retain Sutin, Thayer and Browne as the Board's legal counsel for Fiscal Year 2021. Motion passed.
- During May 21<sup>st</sup> 2020 Board meeting, Deputy Chief Michael Smathers gave a report on APD staff health and wellness during COVID-19 pandemic.
- Executive Director reported to the board regarding changes to case dispositions after conversations with independent monitoring team as it relates to paragraph 183 of the

CASA. The monitoring team accepted CPOA standpoint based on complaints received to unfound or exonerate a case after preliminary investigation. With the approval of the monitoring team, CPOA will now be allowed to use the standard of ‘minimal substantiation’ as it was considered for administratively closed categories to now also be used for ‘unfounded’ and ‘exonerated’ case categories. This standard is not appropriate for use of force cases.

- At PnP Sub-Committee meeting, Board agreed to start the policy review process for SOPs at the time when they are presented at the OPA. This will provide more time to the Board in reviewing, analyzing and recommending policy/procedure changes once policies move forward to the last stages from PPRB for 30-days CPOAB review.
- An issue was raised by City Legal for Board and the Executive Director to sign non-disclosure agreement prior to the receiving complete investigative materials for Serious Use of Force and Officer Involved Shooting cases. Prior to Board’s review of SUOF/OIS cases, City Legal also notified that more steps are needed before the Board can review complete investigative materials. These cases must first be cleared by Multi-Agency Task Force (MATF). The District Attorney informed the CPOA they can continue administrative review even if the criminal review has not taken place. Executive Director reported that MATF issue by City Legal is fairly new which was not raised prior to Board’s request for review of these cases.
- APD Deputy Chief Michael Jay Smathers updated the Board on APD overtime policy changes. Special-order and revised special-order updates and changes in new levels of approval which will now require approvals from higher officials in the chain of command up to the level of the Deputy Chief. DC Smathers also identified the possibility of raising compensatory time limit from 150 to 180 hours which will require MOU between department and the union and will allow department to save overtime costs. Previously, if officers reached 150 hours of compensatory time not utilized, the department started paying 1.5x after reaching 150 hours cap. With new proposal 1.5x pay starts after reaching 180 hours cap.
- Commander Angela Byrd from APD training academy reported on training activities and how the new 4-tier training process for use of force and reporting for all officers is implemented at the academy. IAFD provides quarterly reports to the training academy

which allows the academy to understand the trends seen in the field with the implementation of new use of force policy. APD academy also have culture sensitivity and community-based policing program, where different community groups present to cadets to get idea of different cultures and how to handle interactions with individuals from different cultures. APD academy also host family nights where families affected by police interactions give presentation to cadets emphasizing the need to follow SOPs.

- City Council with recent events as a result of George Floyd incident in Minneapolis received high number of applications to serve on CPOA Board. Majority of applicants are people of color. Councilor Pat Davis, Board Chair Dr. Kass and Director Harness held a meeting to discuss recruitment and onboarding plan for new board members.
- At June 11<sup>th</sup> 2020 meeting, Board notified the City Council representative for an anticipated vacancy at the Board in the near future. If the vacancy arises, this would leave the total number of board position at seven.
- Director Harness encouraged the public to report to CPOA if they were a victim or witnessed unjustified and excessive use of force at the hands of APD during the protests on May 28<sup>th</sup> 2020. Mr. Harness also notified that investigations related to ‘armed civilians’ and alleged illegal detention of the two eighteen and two sixteen years old at protests as well as the investigation of arrest of ‘Clifton White’ are initiated by the Agency.

The oversight ordinance states *“The Board shall review and analyze policy suggestions, analysis, studies, and trend data collected or developed by the Administrative Office, and shall by majority vote recommend policies relating to training, programs and procedures or other matters relating to APD. Any such policy recommendations shall be supported by specific, written findings of the Board in support of the proposed policies. The Board's policy recommendations shall be submitted to APD and to the City Council. The Board shall dedicate a majority (more than 50%) of its time to the functions described in this subsection”*. (§ 9-4-1-4-C-5-a). The PnP Sub-Committee is tasked with reviewing APD policies and procedures and make recommendations to full Board on changes.

Establishing and implementing sound policies are important to help officers in making good decisions in critical situations. The quality of a department’s policy impacts the quality of services delivered to public. Effective police accountability requires the department to have clear and

detailed policies regarding police encounters that involve life, liberty and well-being of people they encounter<sup>1</sup>. Accountability encourages departments to build trust in the communities they serve. Policies need to be clear and consistent throughout a department's Standard Operating Procedures manual. Inadequate policies fail to tackle possibly illegal and unprofessional actions. CPOA/CPOAB recognizes that a good policy recommendation has several features:

- It identifies a problem and proposes a solution,
- It is supported by data,
- It is transparent to the community,
- It is clear, understandable, trainable and acceptable to the Police Department, and
- It has a good chance of being adopted.

There was no official policy recommendation letter provided to APD by the CPOA/CPOAB, however significant discussions took place at Policy and Procedures review Sub-Committee, APD Office of Policy Analysis and APD Policy and Procedures Review Board. Many concerns were raised with the Subject Matter Experts (policy owners), and several comments were made at the OPA and PPRB level to bring changes in SOPs early in the process.

Section § 9-4-1-10-F of the Oversight Ordinance states *"The CPOA shall be responsible for regularly informing Mayor, the City Council, and the Public by submitting semi-annual report that include; Identification of any matters that may necessitate the City's Council consideration of legislative amendments to this Police Oversight Ordinance"*. During this reporting period, there were no legislative amendments that were proposed by CPOAB to the City Council regarding the Oversight Ordinance. However, significant changes to the Policies and Procedures governing the CPOA/CPOAB were approved by the Board during this reporting period which includes:

- Board members voted to approve several changes related to 'Use of Legal Counsel' in the Policies and Procedures. Article III, Section 9. 1) No member other than the Board Chair shall solicit the use of board contracted Legal Counsel without the approval of the full

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<sup>1</sup> *The New World of Police Accountability, Third Edition by Samuel E. Walker & Carol A. Archbold*

board in a properly noticed public meeting. 2) Legal Counsel shall only participate in meetings of the full board. 3) Legal Counsel may participate in Sub-Committee if requested. 4) The Executive Director shall have the authority to request legal services on behalf of the board or agency as needed. These changes were adopted and implemented in updated CPOA Policies and Procedures.

- A Board member made a motion to consider following changes to Policies and Procedures. Article III, Section 3. A to add *“The chairperson shall submit the final draft of the regular meeting agenda to the Executive Director or the Director’s designee on or by 3pmm on the Friday of the week preceding the regularly scheduled meeting. Any member requesting to have the Chairperson place an item on the agenda shall submit their request to the Chairperson before the time the agenda is due to the executive director or at an earlier date and time as prescribed by the Chairperson.”*

Article III, Section 3. H to add *“The Sub-Committee chair shall submit the Sub-Committee meeting agenda to the Executive Director or the Director’s designee by 3pm at least 4 business days prior to the Sub-Committee meeting date. Any Sub-Committee member requesting to have the Sub-Committee chairperson place an item on the agenda shall submit their request to the Sub-Committee chairperson before the agenda is due to the agency or at an earlier date and time prescribed by the Sub-Committee chairperson.”*

Motion passed and changes were adopted.

- Board members voted to approve changes in Case Review Sub-Committee procedures. These changes states; In the month of January, April, July and October CRC members 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 findings to the full board no later than the next quarterly interval.

The CRC Sub-Committee will present their findings and any recommendations or concerns to the full Board for approval of quarterly audit or for further action deemed necessary. It is important to keep in mind that the complainant’s rights remain unaltered under the proposed new functionality of the 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 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. Motion was passed.

- New Open Meetings Act (OMA) resolution was adopted by the board. The link to the complete resolution can be found at: <https://www.cabq.gov/cpoa/documents/draft-cpoa-board-agenda-minutes-april-9-2020.pdf>
- Another motion was passed by the Board to add another section in Article 3 Section 3 to add. 'I' of the policies and procedures to state *"All Sub-Committee meetings shall be called to order at the time scheduled on the announced agenda unless a quorum is not present. A Sub-Committee meeting shall be automatically cancelled if a quorum is not present within 10 minutes of the announced time of the meeting."*



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## Appendix

### **I. Civilian Police Oversight Agency (CPOA) Staff**

**Edward W. Harness, Esq.**

Executive Director

**Paul A. Skotchdopole**

Assistant Lead Investigator

**Diane L. McDermott**

Investigator

**Erin E. O’Neil**

Investigator

**Katrina Sigala**

Senior Administrative Assistant

**Amanda Bustos**

Community Outreach Engagement Specialist

**Ali Abbasi**

Data Analyst

**Valerie Barela**

Administrative Assistant



## **A. CPOA Executive Director**

**EDWARD W. HARNESS, ESQ.** was selected as the top candidate by the CPOAB for the Executive Director position and confirmed by the City Council as Executive Director of CPOA in September of 2015. Edward Harness is a graduate of Marquette University Law School. He completed his undergraduate degree in Management of Criminal Justice Operation at Concordia University, where he graduated Cum Laude. As a private practice attorney, focused on consumer rights and advocacy, Mr. Harness was recognized as one of Milwaukee's Top-Rated Attorneys 2012 – 2015. He also served as a Police Commissioner 2007 – 2015. Prior to attending law school Mr. Harness was a City of Milwaukee Police Officer and served in the U.S. Army as a Military Policeman.

## **B. Duties and Responsibilities of the Executive Director**

Under the amended Ordinance, the Executive Director reports directly to the Civilian Police Oversight Agency Board (CPOAB). The CPOA Executive Director's duties are as follows:

- Independently investigate, or cause to be investigated, all civilian police complaints and prepare findings and recommendations for review by the CPOAB;
- Review and monitor all Internal Affairs investigations including but not limited to officer involved shooting investigations. The Director shall prepare and submit findings and recommendations to the CPOAB relating to officer involved shootings, and shall report on general trends and issues identified through monitoring or auditing of Internal Affairs;
- Provide staffing to the CPOAB and ensure that the duties and responsibilities of the CPOA are executed in an efficient manner, and manage the day-to-day operations of the CPOA.
- The CPOA will receive and process all civilian complaints directed against the Albuquerque Police Department and any of its employees.
- The Director shall independently investigate and make findings and recommendations for review by the CPOAB for such civilian complaints, or assign them for independent investigation by CPOA staff or an outside independent investigator. If assigned to staff or

an outside investigator, the Director shall oversee, monitor, and review all such investigations and findings for each.

- All findings relating to civilian complaints, officer involved shootings and serious uses of force shall be forwarded to the CPOAB for its review and approval. For all investigations, the Director shall make recommendations and give advice regarding Police Department policies and procedures to the CPOAB, as the Director deems advisable.
- Investigation of all civilian complaints filed with the CPOA shall begin immediately after complaints are filed and proceed as expeditiously as possible, and if an investigation exceeds a timeframe of nine months the Director must report the reasons to the Board.
- All civilian complaints filed with other offices within the city authorized to accept civilian complaints, including the Police Department, shall be immediately referred to the Director for investigation.
- Mediation should be the first option for resolution of civilian police complaints. Mediators should be independent of the CPOA, APD, and the city, and should not be former officers or employees of APD. At the discretion of the Director an impartial system of mediation should be considered appropriate for certain complaints. If all parties involved reach an agreement, the mediation is considered successful and no investigation will occur.
- The Director shall monitor all claims of officer involved shootings and serious uses of force. No APD related settlements in excess of \$25,000 shall be made for claims without the knowledge of the Director. The Director shall be an ex-officio member of the Claims Review Board.
- The Director shall maintain and compile all information necessary to satisfy the CPOA's semi-annual written reporting requirements in § 9-4-1-10.
- The Director shall have access to any Police Department information or documents that are relevant to a civilian's complaint, or to an issue which is ongoing at the CPOA.
- The Director shall play an active public role in the community, and whenever possible, provide appropriate outreach to the community, publicize the civilian complaint process, and identify locations within the community that are suitable for civilians to file complaints in a non-police environment.
- The Director shall be provided the necessary professional and/or clerical employees for the effective staffing of the Administrative Office, and shall prescribe the duties of these staff

members. Such professional and clerical employees will be classified city employees. All CPOA staff with investigative duties shall be professional investigators trained in professional investigation techniques and practices.

- The Director shall report directly to the Board and lead the Administrative Office; independently investigate or supervise all investigations of civilian complaints, audit all IA investigations of complaints, recommend and participate in mediation of certain complaints, and supervise all CPOA staff.
- The Director shall complete the initial and ongoing training requirements for Board members as prescribed by § 9-4-1-5(F) and report completion of training activities to the Chair of the Board.

## **II. Civilian Police Oversight Agency Board (CPOAB)**

### **A. Volunteer Board Members**

Joanne Fine - Ms. Joanne Fine has served as a member of the APD Public Safety Partnership for several years, which worked on creating partnerships between the community and APD. Ms. Fine also served as Project Director for developing and opening the Family Advocacy Center, which is a partnership between APD and United Way that serves victims of interpersonal violence. Her experience in developing the Family Advocacy Center provided her with the opportunity to work with human service providers, the courts, the DA's office, underserved communities, and law enforcement, which can be an asset to the CPOAB.

Leonard Waites - Mr. Leonard Waites is a lifelong resident of Albuquerque, which drives his interest in serving on the CPOAB. Mr. Waites wants to ensure the safety of the City and assist in making the CPOAB a fair and impartial system for the citizens of Albuquerque and the Albuquerque Police Department. Mr. Waites is a member of the NAACP and previously served on the Police Oversight Task Force. His areas of interest include mending the relationship between the community and police department and building a relationship between the Board and Chief of Police, as it will be important to correcting and implementing policies and procedures.

Chantal M. Galloway - Ms. Chantal M. Galloway is currently a Vice-President of Business Services. Ms. Galloway holds a BBA from the University of Arkansas at Little Rock, as well as an MBA from the University of New Mexico. Ms. Galloway's interest in serving the CPOAB comes from her desire to be active and serve her community. Ms. Galloway has a background with for-profit and non-profit organizations and hopes to bring her skills of obtaining outcomes wherein vested parties have their concerns or opinions heard and acted upon.

Dr. William J. Kass - Dr. William J. Kass is currently a retired physical scientist. As a private citizen, he has been active in following Albuquerque Police Department reform efforts for nearly five years. He has met with victim's family members; attended meetings with the Department of Justice, the Independent Monitor Team, the City of Albuquerque Council, the Mayor's Initiative,

the Police Oversight Task Force and former and current versions of the Police Oversight Board. He has also attended several area Community Policing Councils. His interests are primarily in policy and community outreach. He serves as the chair of Policy and Procedure Review Committee and is a member of the Community Outreach Sub-Committee. He believes that police policy is public policy and the community should have a voice in creating that policy. That can only be done if the community is informed and engaged and Albuquerque Police Department responds positively to their concerns.

Eric Olivas - Mr. Eric Olivas currently owns and manages his own landscaping and maintenance business. Mr. Olivas' education includes a M.S. in Biology from the University of New Mexico. Mr. Olivas was the Chairman of the Northeast Community Policing Council. His other community work includes serving as President of the Quigley Park Neighborhood Association. Mr. Olivas interest in serving on the Board comes from his experience with the NE CPC and his belief that the City needs a strong police force focused on constitutional community policing, that includes civilian oversight.

Tara Armijo-Prewitt - Ms. Tara Armijo-Prewitt grew up in Albuquerque, graduated from Albuquerque High School, and graduated with honors with a B.S. in Biology from the University of New Mexico before attending graduate school at the University of California Davis, where she earned an M.S. in Entomology. Ms. Armijo-Prewitt is currently working for Catholic Charities of NM in the Center for Educational Opportunities. Ms. Armijo-Prewitt's interest in serving on the CPOA Board comes from her desire to be an engaged citizen and to contribute to the improvement of her community.

Douglas Mitchell - Mr. Douglas Mitchell is retired after a long career working in the Juvenile Justice System in Albuquerque and New Mexico. Mr. Mitchell's interest in serving comes from being a lifelong resident of Albuquerque and wants to contribute to assure that the City thrives. He understands the Police Department has to reflect the values the community represents and wants to move that forward. He believes his years of experience working within the judicial, legislative, and executive branches of government would be an asset to the CPOA Board. Mr. Mitchell has Bachelors of Arts, Social Science and Master of Arts, Public Administration from UNM.

Eric Nixon - Mr. Eric Nixon is currently a Project Manager for the Department of Homeland Security. Mr. Nixon's interest in serving comes from having immersed himself in learning about social justice and equity issues that occur in the community. Mr. Nixon has served as a member of the NW Area Command CPC. This experience has given him a background for voting on and advocating the CPC's recommendations regarding policing activities and policy changes at APD. Mr. Nixon is dedicated to performing the tasks of the Board as a resolute Board Member and impartial voice intent on finding the best solutions for ensuring APD integrity and accountability.

Cathryn Starr-

## **B. Civilian Police Oversight Agency Board Duties**

The Civilian Police Oversight Agency Board (CPOAB) is tasked with the following functions:

- Promote a spirit of accountability and communication between the citizens and APD while improving community relations and enhancing public confidence;
- Oversee the full investigation of civilian complaints; audit and monitor all investigations and/or officer involved shootings under investigation by APD's Internal Affairs;
- Continue cooperation with APD and solicit public input by holding regularly scheduled public meetings;
- Review all work of the CPOA with respect to quality, thoroughness, and impartiality of investigations;
- Submit all findings to the Chief of Police;
- Review and analyze policy suggestions, analysis, studies, and trend data collected or developed by the Administrative Office, and shall by majority vote recommend policies relating to training, programs and procedures or other matters relating to APD. The CPOAB's policy recommendations shall be submitted to APD and to the City Council. The CPOAB shall dedicate a majority (more than 50%) of its time to the functions described in this subsection.

## **C. Civilian Police Oversight Agency Board Sub-Committee**

### **Case Review Sub-Committee**

Reviews Civilian Complaints alongside the CPOA Executive Director.

#### **Members:**

Leonard Waites (chair)

Chantal Galloway

Tara Armijo-Prewitt

Cathryn Starr

### **Policy and Procedures Review Sub-Committee**

Reviews Albuquerque Police Department policies and procedures, and makes recommendations on changes to ensure that compliance and consistency aligns with the Civilian Police Oversight Agency's mission.

#### **Members:**

Dr. William J. Kass (chair)

Eric Olivas

Tara Armijo-Prewitt

### **Community Outreach Sub-Committee**

Members of the Civilian Police Oversight Agency Board discuss community outreach and engagement efforts.

#### **Members:**

Chantal Galloway (chair)

Eric Nixon

Douglas Mitchell



### **Personnel Sub-Committee**

Discuss business regarding Civilian Police Oversight Agency administrative human resource decisions.

#### **Members:**

Eric Olivas (chair)

Douglas Mitchell

Dr. William J. Kass