

CIVILIAN POLICE OVERSIGHT AGENCY

Thursday, March 12, 2015

Vincent E. Griego Chambers, Basement Level
City/County Government Center - One Civic Plaza NW
Albuquerque, New Mexico

Members Present:

Leonard Waites (Chair)
Jeffrey Scott Wilson (Co-Vice Chair)
Beth Mohr (Co-Vice Chair)
Dr. Jeanette Baca
Dr. Moira Amado-McCoy
Rev. David Ring III
Joanne Fine
Eric Cruz (Via Phone)
Eva Sandoval (Via Phone)

Others Present:

Robin Hammer
Paul Skotchdopole
Chris Davidson
Diane McDermott
Erin O'Neil
Paul Cash
Michelle Contreras
APD Lt. Jennifer Garcia
APD Sgt. Mike Medrano
Julian Moya, City Council
Nicholas Bullock, Asst. City Attorney

MINUTES

- I. **WELCOME AND CALL TO ORDER** – Board Member Wilson called the meeting to order at 4:04 p.m.
- II. **PLEDGE OF ALLEGIANCE** – Board Member Waites led the Pledge.
- III. **ELECTION OF POB CHAIR AND VICE CHAIR** – Board Member Fine nominated Board Member Waites for the position of Chairman. Board Member Wilson seconded the motion. Passed.
For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

Chairperson Waites nominated Board Member Wilson for the position of Vice Chair. Board Member Fine nominated Board Member McCoy for the position of Vice Chair. Board Member Baca nominated Board Member Mohr for the position of Vice Chair. Board Member McCoy indicated she could not serve at this time. There was a 4-4 vote for Board Member Wilson (Waites, Wilson, Sandoval, Ring. Board Member Cruz abstained.) There was a 4-4 vote for Mohr. (Mohr, Baca, McCoy, Fine). After discussion, Board Member McCoy suggested the Board have Co-Vice Chairs and made a motion to select Board Members Wilson and Mohr as Co-Vice Chairs. Board Member Ring seconded the motion. Passed.
For: 7 - McCoy, Ring, Wilson, Fine, Baca, Waites, Mohr
Against: 2 - Sandoval, Cruz

IV. APPROVAL OF AGENDA – Chairperson Waites moved to approve the agenda. Board Member McCoy requested that Item XI be moved up and discussed with Item VI. Passed.

For: 8 – McCoy, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Ring
Abstain: 1 – Cruz

Board Member Mohr moved to add a dinner break to the agenda. Board Member McCoy seconded the motion. Passed.

For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

Board Member Ring moved to approve the agenda as amended. Co-Vice Chair Wilson seconded the motion. Passed.

For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

V. PUBLIC COMMENT –

Ben Lovato – Mr. Lovato inquired if all Board Members had undergone a background check, if they had been arrested or incarcerated, or if they had previously filed a complaint against APD. Mr. Lovato asked if the SOPs would be available to the public in hard copy or only online.

Bill Kass – Mr. Kass congratulated the Board and stated that he had applied for a seat on the Board. Mr. Kass stated that there are so many laws that APD can pick and choose which laws they choose to enforce. Mr. Kass stated that there are problems at APD. Mr. Kass stated that the POB can create policy, and that is a good start, and that the POB should make recommendations.

Don Schroeder - Mr. Schroeder spoke about the James Boyd incident, persons who are mentally ill, and families who have lost their loved ones. Mr. Schroeder stated that we must demand police brutality be stopped now. Mr. Schroeder spoke about Sam Costales, a retired officer who spoke recently at UNM regarding problems in law enforcement.

Dinah Vargas – Ms. Vargas stated that she supported Robin Hammer, and requested that Ms. Hammer be retained as the Executive Director of the CPOA. Ms. Vargas stated that Ms. Hammer has been to many community events. Ms. Vargas stated that the District Attorney has been looked at, and that others need to be looked at.

Ernest Sturdevant - Mr. Sturdevant stated that he was one of those that petitioned DOJ to come to Albuquerque. Mr. Sturdevant said that APD thinks there is no problem with the Department, but there is a problem with the media. Mr. Sturdevant voiced that there is a need for fresh people, and that Ms. Hammer should not be retained.

VI. DISCUSSION OF ROLE OF CPOA AND POB – A discussion was had about the role of the COPA and POB. The Ordinance provided direction as to what the Board is tasked with. The Board discussed that an outreach program was a top priority. Board Member Fine made a motion to create an Executive Outreach Committee. Co-Vice Chair Wilson seconded the motion. Passed.

For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

Chair Waites appointed Board Members Waites, Baca, and Ring to the Outreach Committee.

The Board expressed their desire to form other subcommittees, such as a Personnel Committee, a committee to review Citizen Police Complaints, and a Policy and Procedures Committee.

Chair Waites appointed Board Members Waites, McCoy, and Wilson to the Committee on Citizen Police Complaints.

Chair Waites appointed Board Members Mohr, Fine, and Cruz to the Personnel Committee.

Board Member Baca made the motion to establish other subcommittees which the Board would be interesting in creating. Co-Vice Chair Wilson seconded the motion. Passed.

For: 8 – McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval

Abstain: 1 – Cruz

Board Member Baca agreed to create a list of other subcommittees and make a presentation at the April Board meeting.

VII. DRAFT CPOA RULES – Discussion was had regarding the work that CPOA was doing to revamp the CPOA Rules. The Board agreed to work with the staff regarding the Rules. Board Member McCoy moved to allow the CPOA staff to continue their work on the Rules and that this matter be placed on the April agenda. Co-Vice Chair Mohr seconded the motion. Passed.

For: 8 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval

Abstain: 1 – Cruz

VIII. DISCUSSION OF PROCESS TO RETAIN INDEPENDENT LEGAL COUNSEL – A discussion was had regarding Independent Legal Counsel. Ms. Hammer explained there are no funds currently available for hiring Legal Counsel, but a request is contained in the 2016 budget. Julian Moya from City Council advised the Board that they can request funds from the City Council in order to hire Independent Legal Counsel for the next three months. Chairperson Waites made a motion that the Board request funds from the City Council. Board Member McCoy seconded the motion. Passed.

For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

- XI. PROCESS AND SELECTION OF CPOA EXECUTIVE DIRECTOR** – Mr. Bullock from the City Attorney’s Office advised that the Board should go into Executive Session to discuss this matter. Co-Vice Chair Mohr made a motion that the Board go into Executive Session. Board Member McCoy seconded the motion. Passed.

For: 7 - McCoy, Mohr, Waites, Wilson, Fine, Baca, Sandoval
Opposed: 1 – Ring
Abstain: 1 - Cruz

After the Executive Session, the Board discussed that this issue should be deferred to the April 2015 Board meeting. Co-Vice Chair Mohr made a motion to defer this matter to the Personnel Committee. Board Member Ring seconded the motion. Passed.

For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

- IX. CITIZEN POLICE COMPLAINT FINDINGS BY CPOA:**

A discussion was had regarding CPC letters being accepted on a consent agenda. Co-Vice Chair Mohr made a motion to poll the Board to ascertain which CPCs the Board wanted to pull from the Consent Agenda. Co-Vice Chair Wilson seconded the motion. Passed.

For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

CPC 198-14 and CPC 233-14 were pulled from the Consent Agenda.

Board Member Ring made a motion that the Board accept the following CPCs on a consent agenda. Co-Vice Chair Wilson seconded the motion. Passed.

For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

CONSENT AGENDA CASES:

CPC 186-14 – A citizen complained that during an encounter she had with her son, Officer S. was rude, inappropriate, told citizen to shut up, and citizen was afraid that Officer S. was going to attack her. Citizen alleged that Officer S. damaged her gate when he entered the back yard. The video recording showed that Officer S. was not inappropriate, never told citizen to shut up, and never approached citizen as if to attack her. The video also showed that Officer S. knocked on the gate, but not in a violent manner. The CPOA and the POB found the allegations of *Misconduct* and *Working Knowledge of Laws* to be EXONERATED against Officer S.

CPC 196-14 – Citizen was involved in a motor vehicle accident. Citizen alleged that Officer S. was not shown proof of insurance by the other driver, and that the police report was inaccurate as to the location of the vehicles. Officer S.’ police report does list the other driver’s insurance information. The MVD computer does

not always depict that a driver's insurance is not valid. The officer is allowed discretion to rely on the information from the driver regarding insurance. The video recording indicated that citizen's version of where her vehicle was is accurately stated in the police report. However, the contact was not recorded in its entirety. The CPOA and the POB found the allegation of *Preliminary Investigations* and *Use of Discretion* to be EXONERATED, and *Failure to Record* to be SUSTAINED against Officer S.

CPC 209-14 – Citizen was involved in a motor vehicle accident. PSA S. arrived on scene and citizen alleged that PSA S. was rude, and that the accident report was inaccurate. PSA S. did not record the incident. There is no way to prove or disprove the allegation that PSA S. was rude, or that the accident report was inaccurate. PSA S. disagreed with citizen's version of events. The CPOA and the POB found the allegations of *Preliminary Investigations* and *Misconduct* to be NOT SUSTAINED, and *Failure to Record* to be SUSTAINED against PSA S.

CPC 230-14 – Citizen stated that she was stopped by Officer L. because she was driving with her turn signal on, but never turned. Citizen alleged that Officer L. harassed her, called her a criminal and tried to charge her with anything he could, that he did not return her driver's license, and threatened to arrest her. The video recording showed that Officer L. was professional, polite, and patient during the traffic stop, and that the stop was for driving with no headlights at night. Officer L. never called citizen a criminal. Citizen refused many times to sign the citation, which is an offense that Officer L. could have arrested her on. The video showed that Officer L. handed the driver's license to a supervisor on scene. The CPOA and the POB found the allegation of *Working Knowledge of Laws* to be EXONERATED, and *Misconduct* to be UNFOUNDED against Officer L.

CPC 001-15 – Citizen stated that he filed a complaint because a financial institution stole money from him by not making a payment, and that APD would not handle the incident. Citizen contacted the CPOA and stated that he wanted to withdraw his complaint because the bank had settled the dispute. Therefore, the CPOA and the POB ADMINISTRATIVELY CLOSED this case.

CPC 010-15 – A citizen stated that she came upon a rollover accident and discovered that she was in the wrong lane and could not go forward. Citizen alleged that Officer C. then hit her car with his fist and yelled at her. Citizen agreed that her complaint could be best handled informally. Officer C.'s supervisor spoke with Officer C. Citizen was satisfied with the informal resolution of this case. Therefore, the CPOA and the POB ADMINISTRATIVELY CLOSED this case.

CPC 018-15 – A citizen complained that he was treated unfairly by Officer A. Citizen contacted the CPOA and stated that he wanted to withdraw his complaint

because Officer A. was probably having a bad day. Therefore, the CPOA and the POB ADMINISTRATIVELY CLOSED this case.

NON-CONSENT AGENDA CASES:

CPC 233-14 – A citizen stated that she had a restraining order against her ex-husband. Citizen alleged that Officer S. obtained her current address and gave that information to the ex-husband, as well as information regarding her current boyfriend. The CPOA investigation determined that Officer S. did obtain such information from a secure database and did provide that information to the ex-husband. The CPOA and the POB found the allegations of *NCIC Access*, *Disseminating Computer Information*, and *Untruthfulness* to be SUSTAINED against Officer S.

The Board expressed their desire to have this letter contain language as to the severity of the infraction. The Board stated that they would like to be allowed to recommend disciplinary action in cases where they feel the discipline should be as severe as possible. Board Member Fine made a motion to revise the letter to include language regarding stringent discipline recommendations. Co-Vice Chair Wilson seconded the motion. Passed.

For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

Co-Vice Chair Mohr made a motion to accept the letter with the revisions discussed. Board Member McCoy seconded the motion. Passed.

For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

CPC 198-14 – A citizen alleged that Officer P., Officer W., and Detective M. were unprofessional in their dealings with citizen, that they used profanity, used force, and took possession of his wallet and flash drive. Citizen claimed that when he was placed in handcuffs, officers used force which caused injury to his wrists. The video recording showed that citizen resisted being handcuffed, and any force used was necessary to gain control of citizen. The investigation showed that citizen's property and photos were not tagged into evidence. The video recording showed that Detective M. did use profane language, and that his conduct was inappropriate. Officer P. failed to record the incident in its entirety. The CPOA and the POB found the allegation of *Misconduct* and *Profane Language* to be NOT SUSTAINED, *Use of Force* to be EXONERATED, *Appearing for Court*, *Failure to Record*, and *Collecting Evidence* to be SUSTAINED against Officer P.

The CPOA and the POB found the allegation of *Use of Force* to be NOT SUSTAINED, and *Tagging Evidence* to be SUSTAINED against Officer W. The CPOA and the POB found the allegation of *Misconduct* and *Profane Language* to be SUSTAINED against Detective M.

The Board discussed contacting Chief Eden to request that photos taken in incidents should be tagged electronically into evidence using a CAD number or

police report number, and that if evidence is lost, significant discipline should be handed down. Ms. Hammer recommended revising the letter to address the Lost Evidence SOP as being Sustained. Board Member Ring made a motion to accept an amended letter. Board Member Baca seconded the motion. Passed.

For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

Co-Vice Chair Mohr made a motion that Ms. Hammer send a letter to Chief Eden requesting a change to the process of how photos are placed into evidence. Board Member McCoy seconded the motion. Passed.

For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

X. POLICE SHOOTING CASE – I-49-14 – In February 2014, officers were dispatched regarding a dog that was biting students. One student had been bitten prior to the officer's arrival. When the officer arrived, the dog was misbehaving, and went after another student, biting the student and dragging her to the ground. The officer pepper-sprayed the dog, and the dog ran away. A third victim informed the officer that the dog had also bitten her. Officer J. arrived on scene. There were numerous students in the vicinity that were leaving school. Because of the seriousness of the situation, the officers could not wait for Animal Control to arrive. A sergeant then gave permission for Officer J. to take down the dog. Officer J. shot the dog two times, killing the dog. The dog was reportedly rabid, foaming at the mouth, and had not been registered or had the required shots. The Acting Executive Director found that Officer J. was justified in his Use of Deadly Force. Co-Vice Chair Wilson moved to accept the letter. Board Member Ring seconded the motion. Passed.

For: 9 - McCoy, Ring, Mohr, Waites, Wilson, Fine, Baca, Sandoval, Cruz

XII. REPORTS FROM CITY STAFF:

A. Executive Director – Acting Executive Director Hammer reported 2015 statistics as follows:

January 2015:

12 new Citizen Police Complaints

20 Job Well Done Letters

11 Cases Resolved

February 2015:

15 new Citizen Police Complaints

13 Job Well Done Letters

16 Cases Resolved

2015 to date:

32 Citizen Police Complaints received

36 Job Well Done Letters

27 Cases Resolved

Ms. Hammer submitted to the Board the 2014 Semi-Annual and Annual Reports. Ms. Hammer reported that she had appeared on TV and spoke to public groups in the City in 2014 and 2015.

B. SOP Update – CPOA Investigator Paul Skotchdopole reported that the CPOA staff has had no representation on the APD Policy and Procedure Review Board regarding SOPs. However, Chief Eden has informed the CPOA that the Executive Director will be placed back on the Policy and Procedure Review Board. The online version of the SOPs are the most current version.

C. Mayor’s Staff – No one was present to report.

D. City Council Staff – Policy Analyst Julian Moya welcomed the new Board and gave handouts to the Board regarding amendments to the POB Ordinance. Mr. Moya also suggested that the City Council needs to hear from the Board regarding budget issues.

E. City Attorney’s Staff – Nicholas Bullock was present, and stood for questions.

F. Albuquerque Police Department Report –
Acting Lt. Medrano presented the APD report for February 2015:

APD Calls for Service: 35, 257
Internal Affair cases for February 2015
Received 10 Inactivated 0 Completed 9 Mediated 0

Discipline imposed in February 2015
2 verbal reprimands 2 letters of reprimands
1 8-hour suspension 1 16-hour suspension
1 24-hour suspension 1 160-hour suspension
1 termination

XIII. OTHER BUSINESS – Board Member Sandoval will be resigning due to health issues. Sandoval expressed her serious concerns about police training, recruitment, and orientation, and requested that the Board oversee hiring procedures at APD. Chairperson Waites stated that the City Council will name a replacement for Board Member Sandoval.

XIV. ADJOURNMENT - The next Board meeting is scheduled for April 9, 2015, at 5:00 p.m. The meeting adjourned at 9:02 p.m.

APPROVED:

Beth Mohr, Acting Chair
Civilian Police Oversight Agency

DATE

CC: Julian Moya, City Council
Trina Gurule, Acting City Clerk
Rey Garduno, City Council President