CITY OF ALBUQUERQUE

CIVILIAN POLICE OVERSIGHT BOARD

Thursday, October 11, 2018 – 5:00 PM Vincent E. Griego Chambers, Basement Level City/County Government Center – One Civic Plaza NW Albuquerque, New Mexico

Members Present:

Members Absent:

Joanne Fine

Leonard Waites, Chair(in late) Chantal M. Galloway, Vice-Chair Dr. William Kass Valerie St. John Chelsea Van Deventer

Others Present

Edward Harness, CPOA Katrina Sigala, CPOA Jeff Hertz, City Council Lynn Mostoller, Atty Cdr. Michael Miller, APD Jeramy Schmehl, Asst. City Atty James Lewis, Mayor's Office Chris Sylvan, CPC Rowan Wymark, CPC Rod Kontny, CPC

Meeting Minutes

PO Box 1293	1.	Welcome and call to order. Vice-Chair Galloway called to order the regular meeting
PO Dox 1295		of the Police Oversight Board at 5:06 p.m.
	II.	Pledge of Allegiance. Member St. John led the meeting in the Pledge of Allegiance.
Albuquerque I	II.	Mission Statement. Vice-Chair Galloway read the Police Oversight Board's mission
		statement.
NM 87103 I	<mark>V</mark> .	Approval of the Agenda.
11110,100		a) Motion. A motion was made by Member Van Deventer to approve the agenda.
		Member St. John seconded the motion. A second motion was made by Member
www.cabq.gov		Kass to change item VII to appear after item VIII on the agenda. Vice-Chair
www.cabq.gov		Galloway second the motion. The motion was carried by the following vote:
		For: 4 – G <mark>all</mark> oway, St. John, Kass, Van Deventer
	V.	Public Comments
		1. Tony Pirard



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

a) Approval of the Minutes from September 13, 2018

- **1.** Copies of the draft minutes from the September 13, 2018 POB meeting were distributed to each member in their packets.
- **2. Motion.** A motion was made by Member Van Deventer to approve the minutes as written. Member St. John second the motion. The motion was carried by the following vote:

For: 4 - Galloway, St. John, Kass, Van Deventer

- b) Approval of the Minutes from September 21, 2018 Special Board Meeting.
 - 1. Copies of the draft minutes from the September 21, 2018 POB Special Board meeting were distributed to each member in their packets.
 - **2. Motion.** A motion was made by Member Kass to approve the minutes as written. Member St. John second the motion. The motion was carried by the following vote:

For: 4 - Galloway, St. John, Kass, Van Deventer

VII. Reports from City Staff

- a) APD Commander Michael Miller with Internal Affairs gave the following report for APD:
 - 1. Statistical Data. Commander Miller read the Statistical Date for the month of September 2018. A document titled *Police Oversight Board, APD Internal Affairs: Statistical Data for the Month of September 2018* was distributed to the POB members. (see attached)
- b) City Council-
 - 1. City Council Representative. Jeff Hertz presented his report.
 - **2.** City Council Representative is to report back to the board if the deferral of the ordinance changes will affect Executive Directors contract.
- c) Mayor's Office-
 - 1. Mayor's Office Representative. James Lewis presented his report
- d) Community Policing Council
 - 1. North Valley and Foothills CPC Chair Representatives Rowan Wymark and Rod Kontny gave a brief update of events in their area.
 - 2. Chris Sylvan presented his report.
- e) City Attorney-
 - 1. Asst. City Atty. Jeramy Schmehl presented his report

f) Albuquerque Police Officer's Association

- 1. There was no one from APOA present to give a report.
- g) Civilian Police Oversight Agency
 - 1. Executive Director Edward Harness presented his report

*** Chair Waites arrived at 5:40pm ***

VIII. Meeting with Counsel re: Pending Litigation or Personnel issues: Closed Discussion and Possible Action re: Pending Litigation or Personnel Issues

- a) Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978. Section 10-15-1(H)(7);
 - i. Intervention into pending federal litigation
- b) Limited personnel matters pursuant to NMSA 1978; Section 10-15-1(H)(2)

i.Executive Director's contract

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

b) Roll call vote by board members. For: 5- Waites, Galloway, St. John, Kass, Van Deventer

> ---- Meeting on Personnel issues began at 5:42 p.m. and the meeting reconvened at 6:35 p.m. ---

- a) Chair Waites stated that the only discussion in closed session were on the listed agenda items.
- b) Motion. Chair Waites motioned to reconvene the special meeting into regular session. Member Van Deventer seconded the motion. The motion was carried by the following vote:

Roll call vote by board members. For: 5– Waites, Galloway, St. John, Kass, Van Deventer

IX. Reports from Subcommittees

- a) Community Outreach Subcommittee Chantal Galloway-
 - 1. Met September 25, 2018 at 2:30pm
 - 2. Next meeting October 23, 2018 at 1:00pm
- b) Policy and Procedure Review Subcommittee William Kass-
 - 1. Met September 27, 2018 at 1:00pm
 - 2. Kass gave an update on the process of APD Policies (see attached)
 - 3. Next meeting November 1, 2018 at 1:00pm
- c) Case Review Subcommittee Valerie St. John
 - 1. Met September 25, 2018 at 1:00pm
 - 2. CPC 053-18 filed for an appeal and was granted to be on the next CRC Agenda
 - 3. Next meeting October 23, 2018 at 2:30pm
- d) Personnel Subcommittee -

1. Chair Waites mentioned that next week the sub-committee will be scheduling their next meeting to discuss personnel issues.

X. Discussion

a) Police Oversight Boards Policy and Procedure.

1. Review of draft of Policy and Procedure amendments. Board Members discussed potential changes.

2. Motion. Member Van Deventer made a motion to recompile all changes to the draft that was discussed in tonight's meetings and email to all board members for review and present a final draft at the next POB meeting scheduled for November 8, 2018 and vote on. Member Kass seconded the motion. The motion was carried by the following vote:

For: 5 - Waites, Galloway, St. John, Kass, Van Deventer

b) Report on observations from the NACOLE Conference.

1. Report. Board Members enjoyed the experience and exchanged information with other Oversight Agency's.

c) Juvenile Confidentiality recommendation.

- **1. Letter.** Member Van Deventer drafted a letter to Chief Geier making a recommendation of inclusion to the new section in Juvenile SOP 2-22.
- **2. Motion.** Motion by Member Van Deventer to send the letter to Chief Geier and the Policy Board. Member St. John second the motion. The motion was carried by the following vote:

For: 3 – Waites, St. John, Van Deventer Against: 2 – Galloway, Kass

d) Open Meetings Act Resolution.

1. POB Resolution.

Motion. Motion by Vice-Chair Galloway to read and to add into the record to be adopted by the board. Member Van Deventer second the motion. The motion was carried by the following vote:

For: 5 - Waites, Galloway, St. John, Kass, Van Deventer

e) IPRA/NEXT Request

1. Director Harness stated that it was already discussed in the CPOA Report.

f) Public Involvement (Prospective Board Members)

Motion. Motion by Vice-Chair Galloway to withdrawal Item F until such time when the board is prepared to discuss it again so it will not appear on next month's agenda. Member Van Deventer second the motion. The motion was carried by the following vote:

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

g) City Council Study Session Oversight Ordinance.

Motion. Motion by Member Kass to withdrawal agenda item g). Member Van Deventer second the motion. The motion was carried by the following vote: For: 5 – Waites, Galloway, St. John, Kass, Van Deventer

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

a)	Administratively Closed Cases				
	078-18	177-18	185-18	187-18	188-18
	200-18	210-18	231-18		

Motion. Vice-Chair Galloway motioned to approve the Administratively Closed cases presented. Chair Waites seconded the motion and there was no discussion of any cases. The motion was carried by the following vote:
 For: 5 - Waites, Galloway, St. John, Kass, Van Deventer

XII. Non-Consent Agenda.

a) 132-18

1. Motion. Motion by Member Kass to table CPC 132-18 to the next Case Review Committee meeting. Second by Member St. John. The motion was carried by the following vote:

For: 5 - Waites, Galloway, St. John, Kass, Van Deventer

XIII. Non-Concurrence Cases.

a) There was no Non-Concurrence Cases to present

XIV. Review of Appeals

a) There was no Review of Appeal Cases to present

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

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

XVI. POB's Review of Garrity Materials.

a) There was no Garrity Materials to present

XVII. Other Business.

No other business

XVIII. Adjournment – A motion was made by Member Kass to adjourn the meeting. Member St. John second the motion. The motion was carried by the following vote: For: 5– Waites, Galloway, St. John, Kass, Van Deventer The meeting adjourned at 8:34pm

Next Regularly scheduled POB meeting will be on November 8, 2018 at 5:00 p.m. in the Vincent E. Griego Chambers.

APPROVED:

Leonard Waites, Chair Civilian Police Oversight Agency Date

CC: Julian Moya, City Council Staff Katy Duhigg, City Clerk Ken Sanchez, City Council President (via email)

Minutes drafted and submitted by: Katrina Sigala, Senior Administrative Assistant

Attachments

APPROVED:

Wats

Leonard Waites, Chair Civilian Police Oversight Agency

11/8/18 Date

CC: Julian Moya, City Council Staff Katy Duhigg, City Clerk Ken Sanchez, City Council President (via email)

Minutes drafted and submitted by: Katrina Sigala, Senior Administrative Assistant

Attachments

POLICE OVERSIGHT BOARD

PUBLIC COMMENT SIGN IN

DATE: 10/11/2018

NAME (PLEASE PRINT)	
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POLICE OVERSIGHT BOARD INTERNAL AFFAIRS STATISTICAL DATA FOR THE MONTH OF SEPTEMBER 2018

APD 911 Communications Center Dispatched calls for Service for SEPTEMBER 2018: <u>42,970 (decrease from AUGUST (2,368)</u>

INTERNAL CASES FOR THE MONTH OF SEPTEMBER 2018

<u>I's</u>

Total Internal Cases Completed the Month of SEPTEMBER: <u>6</u> Comprised of:

- 4-Internal Affairs Investigations
- 2-Area Command Investigated case

Internal Cases Administratively Closed: 0

Internal Cases Mediated: 0

Discipline imposed for Internal Cases SEPTEMBER 2018:

1: Counseling

- 1: Verbal Reprimand
- 1: Letter of Reprimand
- 1: Termination

EIRS FOR SEPTEMBER2018: 27 alerts distributed

Pending IA Cases for the Month of SEPTEMBER 2018: 14

IA/IAC Cases opened in the month of SEPTEMBER 2018: 4

A PROFESSIONAL CORPORATION

LAWYERS

STEFAN R. CHACON

IRWIN S. MOISE (1906-1984) LEWIS R. SUTIN (1908-1992) FRANKLIN JONES (1919-1994) RAYMOND W. SCHOWERS (1948-1995) GRAHAM BROWNE (1935-2003) NORMAN S. THAYER (1933-2018)

ROBERT G. HEYMAN (Of Counsel)

ANDREW J. BARANOWSKI LILIANA BENITEZ DE LUNA ANNE P. BROWNE SUZANNE WOOD BRUCKNER MARIA MONTOYA CHAVEZ OSCAR C. COBOS EDUARDO A. DUFFY TINA MUSCARELLA GOOCH JESSE D. HALE SUSAN M. HAPKA BRANA L. HARDWAY WADE L. JACKSON DAVID H. JOHNSON ROBERT J. JOHNSTON JACQUELINE K. KAFKA CHRISTINA M. LOONEY STEVAN DOUGLAS LOONEY DEBORAH E. MANN KEITH C. MIER LYNN E. MOSTOLLER CHARLES J. PIECHOTA JAY D. ROSENBLUM FRANK C. SALAZAR JUSTIN R. SAWYER ANDREW J. SIMONS MARIPOSA PADILLA SIVAGE BENJAMIN E. THOMAS L. CURTIS VERNON

October 1, 2018

6100 UPTOWN BLVD NE, SUITE 400 ALBUQUERQUE, NEW MEXICO 87110 POST OFFICE BOX 1945 ALBUQUERQUE, NEW MEXICO 87103 505-883-2500 FAX 505-888-6565

150 WASHINGTON AVE, SUITE 210 SANTA FE, NEW MEXICO 87501 POST OFFICE BOX 2187 SANTA FE, NEW MEXICO 87504 505-988-5521 FAX 505-982-5297

WWW.SUTINFIRM.COM

VIA EMAIL ONLY (<u>Paul.Killebrew@usdoj.gov</u>) Paul Killebrew, Esq. Civil Rights Division, U.S. Department of Justice 950 Pennsylvania Avenue, N.W. Washington, DC 20530

VIA EMAIL ONLY (elizabeth.martinez@usdoj.gov)

Elizabeth Martinez, Esq. U.S. Attorney's Office District of New Mexico P.O. Box 607 Albuquerque, NM 87103

Civilian Police Oversight Agency Executive Director Contract Renewal

Dear Mr. Killebrew and Ms. Martinez,

This firm represents both the Police Oversight Board ("POB") and the Civilian Police Oversight Agency ("CPOA"). Enclosed for your reference as **Exhibit A** is our September 24, 2018 communication to City Council which sets forth the following information regarding the CPOA Executive Director's contract renewal. During its May 16, 2018 POB meeting, the POB unanimously approved a request for the extension of Mr. Edward Harness' contract as CPOA Director—which expires on October 17, 2018. On June 1, 2018, the POB notified City Council that, following the POB's evaluation of Director Harness, the POB was formally requesting that Direct Harness' contract be extended for three years with minimal changes to the contract. (Interoffice Memorandum with accompanying attachments attached to Exhibit A as Exhibit 1.)

Despite the POB's unanimous vote to renew Director Harness' contract, City Council postponed a decision on this contract renewal until November 19, 2018, well after the current contract expires. (August 20, 2018 meeting agenda attached to Exhibit A as Exhibit 2.) City Council's decision is in direct violation of the First Amended and Restated Court-Approved Settlement Agreement [Doc. 354-1] ("CASA") filed in *United States of America v. City of Albuquerque*, 1:14-cv-1025-RB-SMV on March 5, 2018. Specifically, paragraph 279 of the CASA expressly provides that "[t]he Executive Director will be selected by and work under the supervision of the agency [CPOA]." Moreover, pursuant to paragraph 293 of the CASA, "[t]he

SUTIN THAYER V BROWNE A PROFESSIONAL CORPORATION LAWYERS

Paul Killebrew, Esq. Elizabeth Martinez, Esq. October 1, 2018 Page 2

City, shall not, through the City Attorney's office or other means, interpret the originating ordinance of the agency [CPOA] in any way that contradicts the provisions of this Agreement [the CASA]."

Albuquerque's City Council has rejected the POB's request that City Council reconsider its actions in light of the CASA's express terms. (September 28, 2018 Letter from Albuquerque City Council as Exhibit B.) Because time is of the essence, the POB respectfully requests that you raise this issue with the Court as promptly as possible.

Very truly yours,

SUTIN, THAYER & BROWNE A Professional Corporation

By

Christina Muscarella Gooch

cc via email w/s encls:

Esteban A. Aguilar Jr., Esq. (eaj@cabq.gov) Fred Mowrer (fmmowrer@smdlegal.com) Dr. James Ginger (pmrinc@mac.com)

4829554.docx

Office of the City Attorney



September 28, 2018

VIA ELECTRONIC DELIVERY

Lynn Mostoller Christina Muscarella Gooch Sutin Thayer & Browne P.O. Box 1945 Albuquerque, NM 87103

Re: Civilian Police Oversight Agency Executive Director Contract Renewal

Dear Counsel:

Thank you for your September 24, 2018 letter to President Ken Sanchez of the Albuquerque City Council.

Nothing within the First Amended and Restated Court-Approved Settlement Agreement [Doc. 354-1] in United States v. City of Albuquerque, 14-CV-1025 requires the City Council to reconfirm the CPOA Director immediately upon the expiration of his three-year contract. Pursuant to Albuquerque City Ordinance Section 9-4-1-7(B)(2), the incumbent Executive Director may continue to serve as Director until such time as he is either reconfirmed or a new Director is selected and approved by the City Council.

Moreover, as you note in your letter, at its meeting of August 20, 2018, the Council voted to postpone this matter to the date specific of November 19, 2018. The Council will take this matter up again at that time.

www.cabq.gov

NM 87103

Best regards. ilar Jr. City Attome

cc:

Ken Sanchez, President of the Albuquerque City Council

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LAWYERS

IRWIN S. MOISE (1906-1984) LEWIS R. SUTIN (1908-1992) FRANKLIN JONES (1919-1994) RAYMOND W. SCHOWERS (1948-1995) GRAHAM BROWNE (1935-2003) NORMAN S. THAYER (1933-2018)

ANDREW J. BARANOWSKI ANNE P. BROWNE SUZANNE WOOD BRUCKNER MARIA MONTOYA CHAVEZ STEFAN R. CHACON

EDUARDO A. DUFFY TINA MUSCARELLA GOOCH SUSAN M. HAPKA JESSE D. HALE BRANA L. HARDWAY

WADE L. JACKSON DAVID H. JOHNSON ROBERT J JOHNSTON JACQUELINE K. KAFKA CHRISTINA M LOONEY STEVAN DOUGLAS LOONEY DEBORAH E. MANN

KEITH C. MIEB LYNN E. MOSTOLLER CHARLES J. PIECHOTA JAY D. ROSENBLUM FRANK C. SALAZAR JUSTIN R. SAWYER ANDREW J. SIMONS MARIPOSA PADILLA SIVAGE **BENJAMIN E. THOMAS** L CURTIS VERNON

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WWW.SUTINFIRM.COM

September 24, 2018

VIA EMAIL ONLY (kensanchez@cabq.gov) Albuquerque City Council Attention: President Ken Sanchez

Civilian Police Oversight Agency Executive **Director Contract Renewal**

Dear President Sanchez:

This firm represents both the Police Oversight Board ("POB") and the Civilian Police Oversight Agency ("CPOA"). During its May 16, 2018 POB meeting, the POB unanimously approved a request for the extension of Mr. Edward Harness' contract as CPOA Director-which expires on October 17, 2018. On June 1, 2018, the POB notified City Council that, following the POB's evaluation of Director Harness, the POB was formally requesting that Direct Harness' contract be extended for three years with minimal changes to the contract. (Interoffice Memorandum with accompanying attachments enclosed as Exhibit 1.)

Our clients are disappointed that, despite the POB's unanimous vote to renew Director Harness' contract, City Council postponed a decision on this contract renewal until November 19, 2018, well after the current contract expires. (August 20, 2018 meeting agenda attached as Exhibit 2.) Even more troubling, however, is that City Council's decision is in direct violation of the First Amended and Restated Court-Approved Settlement Agreement [Doc. 354-1] ("CASA") filed in United States of America v. City of Albuquerque, 1:14-cv-1025-RB-SMV on March 5, 2018. Specifically, paragraph 279 of the CASA expressly provides that "[t]he Executive Director will be selected by and work under the supervision of the agency [CPOA]." Moreover, pursuant to paragraph 293 of the CASA, "[t]he City, shall not, through the City Attorney's office or other means, interpret the originating ordinance of the agency [CPOA] in any way that contradicts the provisions of this Agreement [the CASA]."

The CPOA, through its POB, has selected Director Harness. Therefore, the POB expects that City Council will ensure that this contract approval is included on City Council's agenda for its upcoming October 1, 2018 meeting.

SUTIN THAYER W BROWNE

Ken Sanchez September 24, 2018 Page 2

Very truly yours,

SUTIN, THAYER & BROWNE A Professional Corporation

By_

Christina Muscarella Gooch

TMG:mcg

Enclosures as noted

cc via email w/encl: Chris Melendrez, Esq. Julian Moya, Esq. Elizabeth Martinez, Esq.

CITY OF ALBUQUERQUE CITY COUNCIL

00-18-8

INTEROFFICE MEMORANDUM

TO: Ken Sanchez, President, City Council

FROM: Julian N. Moya, Special Projects Analyst

SUBJECT: Renewal of Contract with Mr. Edward Harness, Director, Civilian Police Oversight Agency

DATE: June 15, 2018

Pursuant to the provisions of §9-4-1-7 of the Police Oversight Ordinance, the Police Oversight Board (POB) is recommending to City Council, the reconfirmation of the incumbent Civilian Police Oversight Agency (CPOA) Director, Mr. Edward Harness.

At the May 16, 2018 Police Oversight Board Meeting, the Board unanimously approved a request for the extension of Mr. Harness' contract as CPOA Director.

On June 1, 2018, the City Council Office received a letter from the POB notifying the City Council that following the Board's evaluation of Director Harness, they formally request to extend the contract of Director Harness for three years and that the following contract modifications be made:

- 1. Annual salary be adjusted for current cost-of-living rates, or as negotiated between the City and Director Harness.
- 2. A retention incentive of \$15,000.00
- 3. A contract provision be added that allows the POB to make a recommendation to City Council for a potential, annual one-time bonus, not to exceed 5% of annual salary, to be awarded to Mr. Harness for exceptional execution of duties. This bonus will be contingent on Mr. Harness' annual evaluation which includes input from the POB, CPOA staff, and valued stakeholders.

Attachments:

- Letter from Police Oversight Board
- May 16, 2018 POB Meeting Minutes

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EXHIBIT 1

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight BoardLeonard Waites, ChairEric H. CruzJoanne FineValerie St. JohnChelsea Van DeventerEdward Harness, Executive Director

Chantal M. Galloway, Vice Chair Dr. William J. Kass

May 30, 2018

Subject: Request for Renewal of CPOA Director Contract

Honorable Council Members,

I am writing you to express the Police Oversight Board's (POB) satisfaction with the performance of Director Edward Harness, and formally requesting that his contract be extended for another three-year term. Since 2015, Director Harness has met or exceeded the expectations outlined in the Director's duties. Additionally, he led the push to amend the CASA to allow for mediation of complaints as required under city ordinance. His leadership has repaired a once fractured relationship with APD, while increasing access to the complaint process. He continues to ensure fair and impartial investigations, while increasing efficiencies with the agency to handle the increasing caseload.

In evaluating Director Harness' performance, scored and unscored feedback was solicited from the POB, CPOA, and the public; the input we received is consistent with the excellent work Director Harness does and supports our recommendation for contract extension. The POB also asks that several contract modifications be made: (a) annual salary be adjusted for current cost-of-living rates, or as negotiated between the City and Director Harness, (b) a retention incentive of \$15,000.00, and (c) a provision be added that the POB can make a recommendation City Council for a potential, annual, one-time bonus, not to exceed 5% of annual salary, be awarded for exceptional execution of duties contingent on the annual evaluation send to the POB, CPOA staff, and valued stakeholders. May 30, 2018 Page 2

If you have any questions, please contact Chair Waites Iwaites.pob@cabq.gov, or myself

cgalloway.POB@cabq.gov or phone (505) 924-3770.

Respectfully,

/s/Chantal M. Galloway

Chantal M. Galloway Vice Chair, Police Oversight Board

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT BOARD

Wednesday, May 16, 2018 - 5:00 PM Vincent E. Griego Chambers, Basement Level City/County Government Center - One Civic Plaza NW Albuquerque, New Mexico

Members Present:

Members Absent:

Valerie St. John

Leonard Waites, Chair

Chelsea Van Deventer

Chantal M. Galloway, Vice-Chair Eric Cruz Joanne Fine Dr. William Kass James A. Larson

Others Present

Edward Harness, CPOA Katrina Sigala, CPOA Deputy Chief Garcia, APD Cdr. Michael Miller, APD Lt. Languit, APD Matt Jackson, Attorney Jeramy Schmehl, Asst. City Atty

Meeting Minutes

- I. Welcome and call to order. Vice-Chair Galloway called to order the regular meeting of the Police Oversight Board at 5:02 p.m.
- II. Pledge of Allegiance. Member Cruz led the meeting in the Pledge of Allegiance.

PO Box 1293

III. Mission Statement. Member Dr. Kass read the Police Oversight Board's mission statement.

Approval of the Agenda.

a) A motion was made by Member Cruz to approve the agenda Member Dr. Kass 2nd. Also, adding to include a vote to suspend Article IV, Section 5A of the Policy and procedures. The motion vote: Unanimous. Motion Vice-Chair Galloway, Member Dr. Kass 2nd.

www.cabq.gov V. **Discussion:** None

- Review and Approval of Minutes. For more information about minutes from prior VI. POB meetings, please visit our website here: http://www.cabq.gov/cpoa/policeoversight-board/pob-agenda-meeting-minutes
 - a) Approval of the Minutes from April 12, 2018
 - 1. Motion to approve minutes by Member Larson, Member Fine 2nd : vote unanimous
- Public Comments. 1 comment VII.

Civilian Police Oversight Board Minutes - May 16, 2018 Page 1

Albuquerque - Making History 1706-2006

Albuquerque IV.

NM 87103

VIII. Reports from City Staff

- a) APD -
 - 1. Commander Miller presented monthly statistics from IA (see attached)
 - 2. Lt. Languit with IA Force Division answered Member Larson question on APD monitor report of 500 Use of Force Pending Investigation. Pending cases have been reduced to about 250.
- b) Mayor's Office None
- c) City Attorney
 - 1. Asst. City Atty. Jeramy Schmehl presented his report
- d) City Council None
- e) Community Policing Councils None
- f) CPOA
 - 1. Executive Director Edward Harness presented his report

IX. Reports from Subcommittees

- a) Community Outreach Subcommittee Chantal Galloway
 - 1. Met on April 27, 2018
 - 2. Next meeting May 22, 2018 at 2:30pm
- b) Policy and Procedure Review Subcommittee William Kass -
 - 1. Met April 19, 2018
 - 2. Presentation ALCU information on cell site simulator technology APD owns and has been asked to write policy
 - Next meeting May 24, 2018 at 5:00pm, APD will give presentation on OPA policy review process
 - 4. Motion to table Amended Agenda VII-b.-ii-1-4 (Further Amending the Ordinance) and iii(Exit interview to Chief) for next POB, Dr. Kass, Cruz 2nd

c) Case Review Subcommittee - Fine

- 1. Met May 8, 2018
- 2. Concerns and discussions on Administratively Closed Cases.
- 3. Next meeting May 31, 2018 at 3:00pm
- d) Personnel Subcommittee Eric Cruz-
 - 1. Met May 11, 2018 at 4:00pm
 - Reviewed Attorney Applications and motion vote: Unanimous. Member Larson to move forward with Sutin Thayer & Browne Member Fin 2nd
 - 3. Draft request for Extension of CPOA Director Contract (see attached) motion vote: Unanimous. Member Larson, Member Cruz 2nd

Civilian Police Oversight Board Minutes – May 16, 2018 Page 2

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

164-17	212-17	213-17	003-18	024-18
031-18	036-18	051-18	058-18	065-18
067-18	070-18	071-18	072-18	075-18
080-18	081-18	082-18	086-18	088-18
091-18	092-18	093-18	094-18	096-18
097-18				

For: Unanimous

- b) Cases Investigated 040-18 054-18 061-18 For: Unanimous
- XI. Non-Consent Agenda 228-17 063-18 069-18 084-18 090-18 Case 228-17 remove from Non-Consent Agenda to be sent back to CPOA for further investigation. Motion by Member Fine, Member Larson 2nd Cases 063-18, 069-18, 084-18 and 090-18 For: Unanimous
- XII. Non-Concurrence Cases None
- XIII. Serious Use of Force/Officer Involved Shooting Casesa) There were no Use of Force materials to discuss.

XIV. POB's Review of Garrity Materials

a) There were no additional *Garrity* materials to discuss.

XV. Meeting with Counsel re: Pending Litigation or Personnel Issues:

Closed Discussion and Possible Action re: Pending Litigation or Personnel Issues

- a) Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7); and
- b) Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)
- c) There were no issues to discuss.

Civilian Police Oversight Board Minutes – May 16, 2018 Page 3

XVI. Other Business.

- a) Member Larson wanting CPOA Director Harness to have daily contact with investigator on incident with 7 year old girl sex trafficking victim. Crimes Against Children's Unit Policies was updated on October 25, 2017 that the dispatch officers responsibility of criminal sexual contact under the age of 13 CACU will be notified immediately. Juvenile Section Policy 5 4 was also updated on October 25, 2017 it describes the duties and responsibility of detectives of personal assigned to juvenile section. These policies are current not out of date. CPOA is to monitor should investigate all civilian complaints relating to police conduct monitor and report on Police Internal Affairs matters. CPOA Director should report directly to POB and lead the administratively office independently investigate and supervise all investigations civilian complaints and audit all IA Investigations and complaints.
- b) Member Larson Motion for CPOA to immediately monitoring IA to the investigation into what is happing so POB doesn't get left behind and knows what is going on now. Have more real-time insight. Vice-Chair Galloway 2nd
- c) Member Larson withdrawals Motion

XVII. Adjournment – Motion to Adjourn by Member Fine, Dr. Kass 2nd. Vote: unanimous

The meeting adjourned at 7:19pm.

Next Regularly scheduled POB meeting will be on June 14, 2018 at 5:00 p.m. in the Vincent E. Griego Chambers.



City of Albuquerque

Action Summary

Albuquerque/Bernalillo County Government Center One Civic Plaza Albuquerque, NM 87102

City Council

Council President, Ken Sanchez, District 1 Vice-President, Don Harris, District 9

Isaac Benton, District 2; Klarissa J. Peña, District 3 Brad Winter, District 4; Cynthia D. Borrego, District 5 Patrick Davis, District 6; Diane G. Gibson, District 7 Trudy E. Jones, District 8

Monday, August 20, 2018	5:00 PM	Vincent E. Griego Chambers
		One Civic Plaza NW
		Albuquerque/Bernalillo County Government Center

TWENTY-THIRD COUNCIL - SIXTEENTH MEETING

1. ROLL CALL

 Present 8 - Ken Sanchez, Isaac Benton, Klarissa Peña, Brad Winter, Cynthia Borrego, Patrick Davis, Diane Gibson, and Trudy Jones
 Excused 1 - Don Harris

2. MOMENT OF SILENCE

Pledge of Allegiance - Ken Sanchez, President, District 1

- 3. PROCLAMATIONS & PRESENTATIONS
- 4. ECONOMIC DEVELOPMENT DISCUSSION
- 5. ADMINISTRATION QUESTION & ANSWER PERIOD
- 6. APPROVAL OF JOURNAL

August 6, 2018

- 7. COMMUNICATIONS AND INTRODUCTIONS
- 8. REPORTS OF COMMITTEES

Finance and Government Operations Committee - August 13, 2018

Land Use, Planning and Zoning Committee - August 15, 2018

Deferrals/Withdrawals

a. <u>EC-18-194</u> Mayor's Appointment of Mr. Philip A. Snyder to the Lodgers' Tax Advisory Board

A motion was made by President Sanchez that this matter be Postponed to September 5, 2018. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

9. CONSENT AGENDA: {Items may be removed at the request of any Councilor}

a. <u>EC-18-133</u> Mayor's Appointment of Ms. Kara Grant to the Lodgers' Tax Advisory Board

> A motion was made by President Sanchez that this matter be Withdrawn by Administration. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

b. <u>EC-18-170</u> Mayor's Appointment of Ms. Audrey C. Brunner to the Youth Advisory Council

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

c. <u>EC-18-171</u> Mayor's Appointment of Mr. Evan J. O'Connell to the Youth Advisory Council

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

d. <u>EC-18-172</u> Mayor's Appointment of Mr. Shane M. Conley to the Youth Advisory Council

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

e. <u>EC-18-173</u> Mayor's Appointment of Ms. Atlanta R. Taylor-Campagna to the Youth Advisory Council

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

f. <u>EC-18-174</u> Mayor's Appointment of Mr. Isaac D. Castillo to the Youth Advisory Council

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

- For: 8 Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
- Excused: 1 Harris
- g. <u>EC-18-175</u> Mayor's Appointment of Ms. Analise A. Granados to the Youth Advisory Council

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

h. <u>EC-18-176</u> Mayor's Appointment of Ms. Eilean V. McFadden to the Youth Advisory Council

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

i. <u>EC-18-177</u> Mayor's Appointment of Mr. Mahdi Hossaini to the Youth Advisory Council

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

City of Albuquerque

j.	<u>EC-18-178</u>	Mayor's Appointment of Mr. Fernando M. Barrios to the Youth Advisory Council
		A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
		Excused: 1 - Harris
k.	EC-18-179	Mayor's Appointment of Ms. Mary Moskal to the Library Advisory Board
		A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
		Excused: 1 - Harris
I.	EC-18-180	Mayor's Appointment of Ms. Lisa Huval to the Affordable Housing Committee
		A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
		Excused: 1 - Harris
m.	EC-18-181	Mayor's Reappointment of Mr. John A. Carey to the Accountability in Government Oversight Committee
		A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
		Excused: 1 - Harris
n.	EC-18-182	Mayor's Appointment of Ms. Isis I. Lopez to the Youth Advisory Council
		A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
		Excused: 1 - Harris
o .	<u>EC-18-183</u>	Mayor's Appointment of Mr. Fermin C. Gonzales to the Youth Advisory Council
		A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

p.	EC-18-184	Mayor's Reappointment of Ms. Meghan E. Ferguson Mraz to the Arts
		Board

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

- Excused: 1 Harris
- q.
 EC-18-185
 Mayor's Appointment of Mr. Ryan Centerwall to the Albuquerque Energy Council

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

r. <u>EC-18-186</u> Mayor's Appointment of Ms. Margaret A. (Peg) Cronin to the Arts Board

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

s. EC-18-187 Mayor's Appointment of Ms. Juli Hendren to the Arts Board

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

- For: 8 Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
- Excused: 1 Harris

t. <u>EC-18-188</u> Mayor's Appointment of Ms. Maria Griego-Raby to the Albuquerque Museum Board of Trustees

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

u. <u>EC-18-189</u> Mayor's Reappointment of Dr. Alan B. Reed to the Open Space Advisory Board

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

	For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, an Excused: 1 - Harris	d Jones
50 40 400		
<u>EC-18-190</u>	Mayor's Appointment of Mr. Rene C. Fernandez to the Para Advisory Board	Transit
	A motion was made by President Sanchez that this matter be Confirm motion carried by the following vote:	ned. The
	For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, an	d Jones
	Excused: 1 - Harris	
<u>EC-18-191</u>	Mayor's Appointment of Ms. Jae Lihua R. Salazar to the You Council	th Advisory
	A motion was made by President Sanchez that this matter be Confirr motion carried by the following vote:	ned. The
	For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, ar	nd Jones
	Excused: 1 - Harris	
EC-18-192	Mayor's Appointment of Ms. Heather Brewer to the Library A Board	Advisory
	A motion was made by President Sanchez that this matter be Confirm motion carried by the following vote:	ned. The
	For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, an	nd Jones
	Excused: 1 - Harris	
EC-18-193	Mayor's Appointment of Mr. Robert J. Bacon to the Balloon Board of Trustees	Museum
	A motion was made by President Sanchez that this matter be Confir motion carried by the following vote:	med. The
	For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, a	nd Jones
	Excused: 1 - Harris	
EC-18-195	Mayor's Appointment of Ms. Kristin L. McGrath to the Balloc Park Commission	on Fiesta
	A motion was made by President Sanchez that this matter be Confir motion carried by the following vote:	med. The
	For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, a	nd Jones
	Excused: 1 - Harris	
	EC-18-192 EC-18-193	A motion was made by President Sanchez that this matter be Confirm For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, an Excused: 1 - Harris EC-18-191 Mayor's Appointment of Ms. Jae Lihua R. Salazar to the You Council A motion was made by President Sanchez that this matter be Confirmmotion carried by the following vote: For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, an Excused: EC-18-192 Mayor's Appointment of Ms. Heather Brewer to the Library A Board A motion was made by President Sanchez that this matter be Confirmmotion carried by the following vote: For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, an Excused: 1 - Harris EC-18-192 Mayor's Appointment of Ms. Heather Brewer to the Library A Board A motion was made by President Sanchez that this matter be Confirmmotion carried by the following vote: For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, an Excused: EC-18-193 Mayor's Appointment of Mr. Robert J. Bacon to the Balloon Board of Trustees A motion was made by President Sanchez that this matter be Confirmmotion carried by the following vote: For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, an Excused: 1 - Harris EC-18-195 Mayor's Appointment of Ms. Kristin L. McGrath to the

aa.	<u>EC-18-196</u>	Mayors Appointment of Dr. Kimberly M Pruett to the EMS Medical Control Board
		A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
		Excused: 1 - Harris
ab.	<u>EC-18-197</u>	Mayor's Reappointment of Mr. Jason P. Hackett to the EMS Providers Advisory Committee
		A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
		Excused: 1 - Harris
ac.	<u>EC-18-198</u>	Mayor's Appointment of Mr. Enrique J. Cardiel to the Indicators Progress Commission
		A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
		Excused: 1 - Harris
ad.	EC-18-200	Mayor's Appointment of Ms. Jacqueline H. Smith to the Para Transit Advisory Board
		A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
		Excused: 1 - Harris
ae.	EC-18-201	Mayor's Appointment of Ms. Kelly J Garvin to the EMS Providers Advisory Committee
		A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
		Excused: 1 - Harris
af.	<u>EC-18-202</u>	Mayors Appointment of Dr. Chelsea C White, IV to the EMS Medical Control Board
		A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

City C	ouncil	Action Summary	August 20, 2018
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jon Excused: 1 - Harris	es
ag.	<u>OC-18-9</u>	Citizens' Independent Salary Commission	
		A motion was made by President Sanchez that this matter be Receipt Be Noted. The motion carried by the following vote:	
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jon	es
		Excused: 1 - Harris	
*ah.	<u>OC-18-10</u>	Certification of Petitions for Charter Amendment	
		A motion was made by President Sanchez that this matter be Receipt Be Noted. The motion carried by the following vote:	
		For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jon	es
		Excused: 1 - Harris	
13.	APPROVA	LS: {Contracts, Agreements, and Appointments}	
b.	EC-18-203	Appointment of Katy Duhigg to the Position of City Clerk	

A motion was made by President Sanchez that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

14. FINAL ACTIONS

c. <u>R-18-59</u> To Acquire Property, Plan, Design And Construct A Single-Site Supportive Housing Project For Persons Who Are Suffering From Behavioral Health Issues And In Need Of Housing, And Adjusting Department Of Family And Community Services Fiscal Year 2018 City Housing Fund Appropriations (Benton)

> A motion was made by Councilor Benton that this matter be Amended. Councilor Benton moved Amendment No. 1. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

A motion was made by Councilor Benton that this matter be Passed as Amended. The motion carried by the following vote:

For: 5 - Sanchez, Benton, Peña, Borrego, and Gibson

Against: 3 - Winter, Davis, and Jones

Excused: 1 - Harris

10. GENERAL PUBLIC COMMENTS

11. ANNOUNCEMENTS

12. PUBLIC HEARINGS: {Appeals, SAD Protest Hearings}

13. APPROVALS: {Contracts, Agreements, and Appointments}

c. <u>OC-18-8</u> Renewal of Contract with Mr. Edward Harness, Director, Civilian Police Oversight Agency

A motion was made by Councilor Jones that this matter be Postponed to November 19, 2018. The motion carried by the following vote:

- For: 5 Sanchez, Winter, Borrego, Davis, and Jones
- Against: 3 Benton, Peña, and Gibson
- Excused: 1 Harris

14. FINAL ACTIONS

a. 0-18-24

Approving A Project Involving Advanced Network Management Inc. Pursuant To The Local Economic Development Act And City Ordinance F/S O-04-10, The City's Implementing Legislation For That Act, To Support The Acquisition And Renovation Of A Commercial Building Located At 4001 Jefferson Plaza, Ne In Albuquerque In Which To Provide Information Technology Services, Including Engineering, Software Development, And Infrastructure Monitoring And Support, As Well As Serving As Corporate Headquarters; Authorizing The Execution Of A Project Participation Agreement And Other Documents In Connection With The Project; Making Certain Determinations And Findings Relating To The Project; Ratifying Certain Actions Taken Previously; And Repealing All Actions Inconsistent With This Ordinance (Winter, by request)

A motion was made by Councilor Winter that this matter be Passed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

City of Albuquerque

City C	ouncil
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b.	R-18-56	Amending C/S R-18-18 (Enactment No. R-2018-031) To Extend The
		Deadline For A Committee Of Public And Private Entities To Conduct An
		Analysis Of The 2018 International Energy Conservation Code With
		Intentions To Replace The Currently Adopted 2009 Energy Conservation
		Code (Benton)

A motion was made by Councilor Benton that this matter be Passed. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

*d. <u>0-18-25</u>

F/S An Ordinance Authorizing The Execution And Delivery Of A Loan Agreement And Intercept Agreement By And Between The City Of Albuquerque (The "City") And The New Mexico Finance Authority (The "Finance Authority"), Evidencing A Special, Limited Obligation Of The City To Pay A Principal Amount Of Up To \$2,740,000, Together With Interest Thereon, For The Purpose To Acquire, Renovate, Equip And Furnish A Fleet Maintenance Facility For The Benefit Of The City Fire Department To Be Located Within The City And Paying A Loan Processing Fee And Expenses; Providing For The Payment Of The Principal Of, And Interest On The Loan Agreement Solely From A Pledge Of Distributions Of Fire Protection Fund Revenues Distributed By The State Treasurer To The City Pursuant To Section 59A-53-7 NMSA 1978; Providing For The Distributions Of Fire Protection Fund Revenues To Be Redirected By The State Treasurer To The Finance Authority Or Its Assigns For The Payment Of Principal And Interest Due On The Loan Agreement Pursuant To An Intercept Agreement; Approving The Forms Of The Loan Agreement And Intercept Agreement; Ratifying Actions Heretofore Taken; Repealing All Action Inconsistent With This Ordinance; And Authorizing The Taking Of Other Actions In Connection With The Execution And Delivery Of The Loan Agreement And Intercept Agreement (Sanchez, Winter)

A motion was made by Councilor Winter that this matter be Substituted. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

A motion was made by Councilor Winter that this matter be Passed as Substituted. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

*e.

F/S Relating To The Redevelopment, Leasing And Sale Of A 0-18-26 Metropolitan Redevelopment Project And The Issuance Of Metropolitan Redevelopment Revenue Bonds Payable From Rental Payments Therefor; Approving The Metropolitan Redevelopment Application Entitled "Bank Of The West Metropolitan Redevelopment Bond Application"; Authorizing The Acquisition Of Land And Existing Improvements And Construction Of A Building Within The Downtown 2025 Metropolitan Redevelopment Area; Authorizing The Disposition By Lease And Sale Of The City's Interest In Such Project To Roma Fourth Capital, LLC, Its Successors And Assigns; Authorizing The Issuance And Sale Of The City Of Albuquerque, New Mexico Metropolitan Redevelopment Revenue Bonds (Bank Of The West Center Project) Series 2018 In The Maximum Principal Amount Of \$30,000,000 To Provide Funds To Finance A Portion Of The Costs Of The Acquisition And Construction Of The Project; Authorizing The Execution And Delivery Of An Indenture, Lease Agreement, Bond Purchase Agreement, The Bonds, And Other Documents In Connection With The Issuance Of The Bonds And The Project; Making Certain Determinations And Findings Relating To The Bonds And The Project; Ratifying Certain Actions Taken Previously; And Repealing All Actions Inconsistent With This Ordinance (Benton, by request)

A motion was made by Councilor Benton that this matter be Substituted. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

A motion was made by Councilor Benton that this matter be Passed as Substituted. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

*f. <u>R-18-57</u>

F/S Making Findings In Connection With The Lower Petroglyphs Public Improvement District's Resolution Authorizing The Issuance And Sale Of Special Levy Revenue Bonds; Ratifying And Approving The Issuance And Sale Of The Lower Petroglyphs Public Improvement District Special Levy Revenue Bonds, Series 2018, As Substantially Consistent With The Requirements Of City Ordinance Enactment No. O-2003-12 And City Council Resolution No. R-2012-47, Enactment No. R 2012-35; Amending The Development Agreement And Formation Resolution (Sanchez, by request)

A motion was made by President Sanchez that this matter be Substituted. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones
Excused: 1 - Harris

A motion was made by President Sanchez that this matter be Passed as Substituted. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

*g. <u>R-18-58</u>

F/S Making Findings In Connection With The Saltillo Public Improvement District's Resolution Authorizing The Issuance And Sale Of Special Levy Refunding Revenue Bonds; Ratifying And Approving The Issuance And Sale Of The Saltillo Public Improvement District Special Levy Refunding Revenue Bonds, Series 2018, As Substantially Consistent With The Requirements Of City Ordinance Enactment No. 0-2003-12 And City Council Resolution Enactment No. 169-2003 (Borrego, by request)

A motion was made by President Sanchez that this matter be Substituted. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

A motion was made by President Sanchez that this matter be Passed as Substituted. The motion carried by the following vote:

For: 8 - Sanchez, Benton, Peña, Winter, Borrego, Davis, Gibson, and Jones

Excused: 1 - Harris

SOP 2-52 ACTIVITIES

IDKB	ActivityDate	ContactName	StageAct	Comments
221	6/21/2016	Bill Slauson	Public Comment	Old use of force policy - public comment at OPA
	7/18/2017	Gordon Eden	Chief Review	under use of force awareness memo
150	4/18/2018		Best Practices	Baltimore PD use of force policy
151	4/22/2018		Development	Earliest Draft available Doc #152 revision of draft
157	5/1/2018	Elizabeth Martinez	Development	Telecon to discuss POB recommendation process for SOP UoF suite
153	5/3/2018	James Ginger		Cover email from Ginger plus draft comments on use of force suite Ginger comments on 2-52, 2-53, 2-54, 2-55, doc # 154
155	5/4/2018	Jeramy Schmehl	Development	Cover email with use of force policies
	5/8/2018	Elizabeth Martinez		monitor monthly meeting - ryals descripition, APOA reaction
	5/9/2018	William Kass	Development	5/8 meeting notes
156	5/10/2018	Stephen Ryals	Development	higher standard for use of force
158	5/15/2018	Elizabeth Martinez	DOJ review	Meeting at US AO, DOJ, amici, APD, POB present, main issue explained by Steve Ryals that reasonable force to deal with the situation would be the standard not max allowable force re Graham.
	5/16/2018	William Kass	POB Review	Presentation of status wrt to use of force rewrite, reported shift in paradigm re Stephen Ryals 5/10/18 email (above)
220	5/23/2018	Jeramy Schmehl		email marked use of force
	5/24/2018	William Kass	PnP Review	review criteria
148	5/24/2018	Stephen Ryals	DOJ review	draft of 2-52
	5/24/2018	Cara Garcia	OPA review	auditneed
149	5/27/2018		Best Practices	Summary of best practices
162	5/29/2018	Jeramy Schmehl	Publish SOP	City Draft as of May 29
	5/31/2018	Fred Mowrer		email APOA policy changes
161	6/2/2018	Jeramy Schmehl	CABQ Review	use-of-force, City Versions, also see docs # 162, #163
148	6/5/2018	Elizabeth Martinez	DOJ review	use of force policy suite, APOA objected to lack of Graham verbiage.
129	6/6/2018	Robby Heckman	Public Comment	Comments submitted on 6/26 on OPA comment form
0	6/14/2018	Robert Middleton	POB Review	Presentation to POB highlights of SOP 2-52, community input

146	7/10/2018	Robert Middleton	PPRB Review	Public comments incorporated into SOP 2-52
145	7/12/2018	William Kass	POB Review	Discussion of SOP 2-52 process and results
0	7/17/2018	Robert Middleton	Public Information	Presentation of 2-52 at compliance meeting for amici
224	8/16/2018	William Kass	PnP Review	PnP meeting to call special meeting of the POB
140	8/24/2018	William Kass	POB Review	POB special meeting to hear public comment on use-of-force and discussion of SOP 3-52
147	8/29/2018	Anne Kass	Public Comment	Graham standard language discussion
223	10/4/2018	James Ginger		SOP 2-52 use-of-force markup
222	10/4/2018	James Ginger	IMT review	SOP 2-52 approved by IMT and parties

PPRB Meetings

Date	SOPID	Org	Contact	Comments	IDKE
12/6/2016	SOP 2- 56X	PPRB	Sue Brown	Force Review Board	
1/17/2017	SOP 3-46	APD	Bill Slauson	Discipline System	
7/12/2017	SOP 7-3	APD	Bill Slauson	Force Investigative Team	
8/17/2017	POB-04	PPRB	Bill Slauson	Agenda: Chain of custody form, 4-4 Area command investigations unit, 5-3 criminal investigations division, 5-8 crime scene specialist	0
8/17/2017	SOP 4-1	APD	Bill Slauson	Area command investigations unit IMPACT	0
8/17/2017	SOP 5-3	APD	Bill Slauson		0
8/17/2017	SOP 5-8	APD	Bill Slauson	scheduled	0
8/24/2017	SOP 3-31	APD	Bill Slauson	Physical fitness SOP	0
8/24/2017	POB-04	PPRB	Bill Slauson	Agenda: Forms: post pursuit checklist, Mandatory training, Policy review: 2-45 pursuit by motor vehicle, 3-10 chiefs authority, 3-11 command staff responsibility, 3-31 physical fitness testing and training	0
8/24/2017	SOP 2-45	APD	Bill Slauson		0
8/24/2017	SOP 3-10	APD	Bill Slauson	Chief's authority and responsibilities SOP	0
8/24/2017	SOP 3-11	APD	Bill Slauson		0
10/30/2017	SOP 1-10	APD		Peer support review draft	0
11/2/2017	SOP 3-41	APD	Bill Slauson	Policy scheduled for review - rescheduled for 11/30	0
11/2/2017	POB-04	PPRB	Bill Slauson	SOP 1-10 peer support, SOP 3-41 Complaints involving department policy or personnel	0
11/30/2017	SOP 3-41	APD	Bill Slauson	Policy scheduled for review	0
11/30/2017	SOP 5-8	APD	Bill Slauson		0
11/30/2017	POB-04	PPRB	Bill Slauson	SOP 2-3 firearms and ammunition, 3-41 complaints re APD, 5-8 crime scene specialists	0
11/30/2017	SOP 2-3	APD	Bill Slauson		0
					-
4/25/2018	POB-04	APD	Cori Lowe	Approval of SOP 3-52	0
7/10/2018	SOP 2-52	PPRB	Robert Middleton	Public comments incorporated into SOP 2-52	146
8/1/2018	POB-04	APD	Michelle Campbell	SOP 2-13 Starchase Pursuit, SP 2-29 Emergency Response Team, 2-53 Use of force definitions, Sexual Assault Case type	0

PPRB Meetings

8/1/2018	SOP 2-53	APD	Robert Middleton	discussion of feasible, what is a hard object, immediate vs imminent, discussion of training, officers need to read the policy, level 1 is a review, level 2 and 3 are investigations, what are percentages	175
8/2/2018	SOP 2-13	APD	Joshua Brown	raised issue of effectiveness, 90% stick rate, 85% apprehension rate, value of property recovered exceeds cost of system?,	0
8/10/2018	SOP 2-55	APD	Robert Middleton	Review of SOP 2-55 as presented to POB previous day	0
8/10/2018	SOP 2-29	APD	Timothy Espinosa	PPRB review - Officers deployed with ERT will be assigned a specific role so they are prepared to do that job. Mutual aid agreement governs interagency cooperation. MOU was raised, EH suggested that APD make it part of their tactical plan. Wjk raised question of version control - Michelle Campbell said they are looking at that re issues raised at 8/9 POB meeting	
8/10/2018	SOP 2-54	APD	Robert Middleton	Scanned copy of SOP presented to PPRB on 8/10 and to POB on 8/9	
8/10/2018	POB-04	APD	Michelle Campbell	SOP 2-54 Intermediate Weapons, SOP 2-55 De- escalation,SOP 2-29 Emergency Response Team	0
8/27/2018	POB-04	APD	Michelle Campbell	SOP 1-32 compliance division SOP 2-7 Damage to civilian property SOP 2-26 Law enforcement center evacuation plan SOP 2-27 Rescue task force SOP 2-32 exposure to blood or bodily fluids SOP 2-48 towing and wrecking services	130
8/27/2018	SOP 1-32	APD	Cori Lowe	PPRB approved version	131
9/7/2018	SOP 2-19	APD	Michelle Campbell	Response to Behavioral Health Issues	144

PPRB Meetings

9/18/2018	POB-04	APD	Michelle Campbell	SOP 2-20 hostage suicidal barricaded subjects, SOP 2-23 Use of canine unit, SOP 2-25 bomb threats and bomb emergencies, SOP 2-70 execution of search warrants, SOP 6-7 Explosive Ordnance Disposal unit (Bomb Squad), SOP 6-9 K-9 Unit	0
9/18/2018	SOP 2-20	APD	Arturo Sanchez		177
9/18/2018	SOP 6-8	APD	Arturo Sanchez	Re-write of old SOP that AS found was not easily readable, had not previously been published. Done on own initiative. Removal of priority of life, which included evidence as the last priority, now everything re p o I is removed, EH pol - deals with too many things, there are other models, APD current practice is not to do dynamic entry for the purpose of seizing evidence recent DEA example, they asked for swat entry , APD said no.	0
10/3/2018	POB-04	APD	Michelle Campbell	SOP 2-6 use of emergency warning	0
10/10/2018	POB-04	APD	Michelle Campbell	SOP 2-24 Hazardous materials incident response SOP 2-26 Law enforcement center evacuation plan	0

IDKB	Date	Contact	StageAct	Comments
18	9/8/2015	Leonard Waites	Chief Review	Letter to Berry and Eden re shutting community and POB out of policy review process - APD wants to finalize CASA related policies without providing the POB or community an opportunity to review and comment. CABQ goal in CASA was to ensure APD delivers c
19	5/10/2016	Bill Slauson	Development	SOP 3-29 policy development process flowchart from SB files
20	9/8/2016	Beth Mohr	Recommendat ion	SOP 3-29 policy recommendation approved by board
21	9/13/2016	Bill Slauson	OPA review	Sept 2016 OPA agenda Review of on body recording devices SOP 1-39
22	10/26/2016	Beth Mohr		Email to Elizabeth Martinez re: 1-The Chief has failed to respond to the POB regarding findings and disciplinary recommendations. as required: 2-APD provided the CPOA/POB only with redacted version of the monitor's report, 3-APD is withholding data from t
23	11/28/2016	Gordon Eden	Chief Review	SOP 3-1 will be sent to OPA for review, but does not reflect agreement with changes it does not seem appropriate dor restrictions on the mayor's appointment poweres to be legislated through APD policy, Response to 9/8/16 letter: SOP 3-29 (policy o
25	3/2/2017	Gordon Eden		Need to report suspected violation of NCIC and NMLETS to NM DPS, NCIC then reports APD misuse of data to fbi
26	4/17/2017	Gordon Eden	Chief Review	Letter Chief Eden to POB re OPA -lengthy rejection of a larger role for the CPOA / POB. APD will add personnel to deal with problem and will have POB /CPOA get in line with the rest of the public have expanded OPA efforts from CASA policies to all poli
27	7/13/2017	Joanne Fine	IMT review	Letter to Ginger re APD shutting CPOA out of policy process APD did not start CASA process seeking civilian inputCPOA/POB have sought meaningful ways to participate, value of POB members input and requrements of CASA are in contention POB proposed a
28	7/28/2017	Joanne Fine	Development	Working group formation and questions
0	8/16/2017	Bill Slauson	OPA review	OPA agenda 17-16 SOP 4-35 Problem Oriented Policing with review packet
0	8/17/2017	Bill Slauson	PPRB Review	Agenda: Chain of custody form, 4-4 Area command investigations unit, 5-3 criminal investigations division, 5-8 crime scene specialist
0	8/24/2017	Bill Slauson	PPRB Review	Agenda: Forms: post pursuit checklist, Mandatory training,

10 Oct18 wjk

				Policy review: 2-45 pursuit by motor vehicle, 3-10 chiefs authority, 3-11 command staff responsibility, 3- 31 physical fitness testing and training
0	8/30/2017	Bill Slauson	OPA review	OPA Agenda 17-17 SOP2-11, 3-45, 4-23, 2-91, 5-11, 2- 86, 3-24, 1-2
0	10/25/2017	Bill Slauson	OPA review	OPA Agenda 17-19 Consent agenda + other SOPs to review Consent agenda , SOP 2-82, 2-73,5-6,5-7,1-7,2-4,5-4,2- 92,2-17, SOPs for review 2-11, PIT policy, 3-45, 3-24, 2-91, 5- 11, 2-86
0	11/2/2017	Bill Slauson	PPRB Review	SOP 1-10 peer support, SOP 3-41 Complaints involving department policy or personnel
0	11/15/2017	Bill Slauson	OPA review	OPA Agenda 17-20 SOP 3-45, 2-91, 3-24, 2-2, 1-2
0	11/15/2017	Gordon Eden	Chief Review	Explaining how other constraints don't allow for response needs
0	11/30/2017	Bill Slauson	PPRB Review	SOP 2-3 firearms and ammunition, 3-41 complaints re APD, 5-8 crime scene specialists
0	12/10/2017	Bill Slauson	Publish SOP	SOP review timetable published
0	12/13/2017	Bill Slauson	OPA review	SOP 2-45 pursuit by motor vehicle, 3-45 due process notification, 2-2 department property, 1-2 social media, 8-3 fiscal division
0	1/10/2018	AdamPaul Garcia	OPA review	OPA Agenda multiple items, POB comments received re 2-92 crimes against children, 5-4 Juvenile section
0	2/13/2018	William Kass	PnP Review	POB policy recommendation process - prioritizing policies
0	3/1/2018	James Larson	PnP Review	POB position is all APD proposed policies are subject to a formal POB review.
0	3/29/2018	Paul Killebrew	DOJ review	3-52 discussion / review 26 page policy, flow charts, timelines
0	4/24/2018	Jeramy Schmehl	CABQ Review	SOP 3-52
0	4/25/2018	Cori Lowe	PPRB Review	Approval of SOP 3-52
0	4/30/2018	James Larson	POB Review	Memo describing concerns with SOP reviews and policies 1-4 and IA
117	5/10/2018	Jolene Luna	OPA review	OPA agenda 18-1, Starchaser
0	5/16/2018		OPA review	Policy review time table for non-CASA policies
0	5/16/2018		OPA review	Policy review time table for CASA policies
116	5/24/2018	Jolene Luna	OPA review	OPA Agenda 18-2 SOP 2-1, SOP 2-94 child abuse response, SOP 8-2 audit
0	5/29/2018	Jolene Luna	OPA review	OPA policy recommendation form
115	5/31/2018	Jolene Luna	OPA review	OPA Agenda 18-3 SOP 3-34 Training committee
114	6/7/2018	Jolene Luna	OPA review	OPA Agenda 18-4 6-1 Training division, 2-29 emergency response team,

10 Oct18 wjk

113	6/14/2018	Jolene Luna	OPA review	OPA Agenda 18-5 SOP 2-52 presented at POB monthly meeting
112	6/21/2018	Jolene Luna	OPA review	OPA Agenda 18-6 SOP 2-19 response to behavioral health issues
111	6/28/2018	Jolene Luna	OPA review	OPA Agenda 18-7 SOP 9-1 communications, SOP 2-8 use of on body recording devices (postponed)
109	7/12/2018	Jolene Luna	OPA review	OPA Agenda 18-8 SOP 2-53 use of force definitions
108	7/19/2018	Jolene Luna	OPA review	OPA Agenda 18-9 SOP 1-32 compliance division, 2-7 Damage to civilian property, 2-48 towing and wrecking, 2-24 hazardous material incident response, 2-32 Exposure to blood or bodily fluids
107	7/26/2018	Jolene Luna	OPA review	OPA Agenda 18-10 SOP 2-8, 2-54, 2-55
0	8/1/2018	Michelle Campbell	PPRB Review	SOP 2-13 Starchase Pursuit, SP 2-29 Emergency Response Team, 2-53 Use of force definitions, Sexual Assault Case type
0	8/2/2018	Jolene Luna	OPA review	SOP 2-19 response to behavioral health issues, SOP 1-2 social media, SOP 2-27 rescue task force
0	8/7/2018	Jolene Luna	POB Review	SOP 2-52 and SOP 2-53 notice of 30 day POB review
0	8/9/2018	Jolene Luna	OPA review	OPA agenda 18-12, SOP 2-20 Hostage, suicidalSOP 2- 23 use of a canine unit, SOP 2-25 bomb threats, SOP 2- 70 execution of search warrants, SOP 6-7 explosive ordinance disposal, SOP 6-8 specialized tactical units, SOP 6-9 K-9 Unit
0	8/10/2018	Jolene Luna	Public Information	Pursuant to Department SOP 3-52, the attached policies, 2-54 Intermediate Weapon Systems and SOP 2-55 Use of Force – De-Escalation, were approved by the Policy and Procedures Review Board (PPRB) on Friday, August 10, 2018. These policies are being provid
0	8/10/2018	Jeramy Schmehl	Public Information	Attached you will find the City's drafts of what are SOP 2-56 Use of Force—Reporting by Dept Personnel and 2-57 Use of Force—Review and Investigation by Department Personnel. The City and Department look forward to collaborating with you all on the revi
0	8/10/2018	Michelle Campbell	PPRB Review	SOP 2-54 Intermediate Weapons, SOP 2-55 De- escalation,SOP 2-29 Emergency Response Team
106	8/16/2018	Jolene Luna	OPA review	SOP 2-23 use of canine unit, SOP 2-25 bomb threats and bomb emergencies, SOP 1-8 Naloxone policy, SOP 2-26 Law enforcement center evacuation plan
0	8/23/2018	Amanda Tapia	OPA review	SOP 1-46 separated from 6-1 field training officer program,
105	8/23/2018	Jolene Luna	OPA review	OPA agenda 18-14 SOP 1-12 internship program, 1-46 field training and evaluation, 2-3 firearms and ammunition, 2-9use of computer systems, 6-1 training division dept to have cell phones by december for all officers, address sanctions futher discussion wi

130	8/27/2018	Michelle Campbell	PPRB Review	SOP 1-32, 2-7, 2-26, 2-27, 2-32, 2-48,
135	8/30/2018	Jolene Luna	OPA review	SOP 1-5 sexual harassment in the workplace, SOP 2-6 use of emergency equipment, SOP 2-33 rights of onlookers, SOP 3-33 early intervention
136	8/30/2018	William Kass	OPA review	Notes on policies reviewed
168	9/13/2018	Jolene Luna	OPA review	SOP 1-11 Behavioral Sciences Section, Dr. Nils Rosenbaum SOP 2-10 Use of Emergency Communications, Sophia Torres SOP 8-1 Planning Division, Maria Garcia-Cunningham
0	9/18/2018	Michelle Campbell	PPRB Review	SOP 2-20 hostage suicidal barricaded subjects, SOP 2- 23 Use of canine unit, SOP 2-25 bomb threats and bomb emergencies, SOP 2-70 execution of search warrants, SOP 6-7 Explosive Ordnance Disposal unit (Bomb Squad), SOP 6-9 K-9 Unit
194	9/20/2018	Jolene Luna	OPA review	SOP 2-63 Crime stoppers investigations, SOP 3-33 Personnel Management, evaluation and development system
193	9/27/2018	Jolene Luna	OPA review	SOP 1-25 Chaplain unit, 2-30 Emergency command post, 2-33 rights of onlookers 2nd review, 2-36 Police press relations and release of police id photographs 2nd review
0	10/3/2018	Michelle Campbell	PPRB Review	SOP 2-6 use of emergency warning
0	10/4/2018	Jolene Luna	OPA review	
214	10/11/2018	Jolene Luna	OPA review	agenda 18-20 SOP 1-31 Court Services unit (new), 8-14 court services; False alarm Reduction Unit new SOP 1-44, old 8-12; SOP 2-5 use of police vehicles; SOP 2-97 Harm reduction act and needle exchange program; SOP 2-98 methadone distribution centers

Civilian Police Oversight Agency Policies and Procedures

ARTICLE I -- PURPOSE

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

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

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

ARTICLE II -- MEETINGS

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

2. <u>Special Meetings.</u> Special meetings may be called by the Chairperson or a majority of the members upon three days notice. On the petition of 1,000 or more civilians in the City of Albuquerque, the POB also shall hold a special meeting for the purpose of responding to the petition, and hearing and inquiring into matters identified therein as the petitioners' concern.

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

4. **Open Meetings.** Except as may otherwise be provided in the Constitution of the State of New Mexico or the Open Meetings Act, all meetings of a quorum of members of the POB held for the purpose of formulating public policy, discussing public business or taking any

Commented [A1]: Chantal strikes the word "shall"

Commented [A2]: The Ordinance, 9-4-4-12 includes the word "shall" so without changing the Ordinance, I do not recommend changing this requirement.

action within the POB's authority or the delegated authority of the POB, are to be public meetings open to the public at all times. Each year, the Chairperson of the POB shall introduce, and the POB shall adopt, a resolution establishing procedures to provide reasonable notice of POB meetings to the public. Meetings will be conducted with a prepared, timely posted agenda, and, except for emergency matters, the POB shall take action only on items included in the agenda. Regularly scheduled meetings will be televised live on the appropriate government access channel, if it is operating. Special meetings shall be videotaped and aired on the appropriate government access channel.

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

6. Public Comment and Addressing Meetings.

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

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

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

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

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

F. No signs, props, posters, or banners will be allowed in the meeting chambers other than those that are $8\frac{1}{2}$ x 11" or smaller. Such material shall not be held or waived in a manner that blocks the view of others or creates a distraction from the speaker or the business at hand.

7. **Records.** The CPOA Analyst shall serve as the custodian of records for the POB and shall retain the minutes and records of all POB proceedings.

8. <u>Attendance.</u> Board members shall attend all meetings of the POB unless excused by the Chairperson.

9. **Disturbing Meetings.** It shall be unlawful to disturb any meeting of the POB or any of its subcommittees, or to behave in a disorderly manner at any such meeting. There will be no tolerance for disruptive public outbursts or disruptions that impede the orderly progress of a meeting. The Chairperson or presiding Board member will provide one warning to anyone who

2015.9.10

Commented [A3]: Chantal strikes the words "analyst" and "serve as the" [Chelsea says, these are also provided by the ordinance, but we aren't complying anyway, so maybe we should still change this despite the conflict] . I do not see where this is provided for in the CASA or the Ordinance. It is an IPRA issue more than anything so as the POB changes need to comply with IPRA

Commented [A4]: Chelsea suggests this rewrite: However, it will conflict with the ordinance but I'm thinking that we should make a change anyway, because we have never been able to comply with this part of the ordinance. (See CPOA lawyer comment above) My suggested rewrite goes like this:

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

2

causes a disruption. Upon a second or continued disruption, the Chairperson or presiding Board member will ask that person to leave the Chambers, and, if necessary, will ask that security escort that person out of the Chambers. Such removal from the Council Chambers or Committee Room will be effective for the remainder of that meeting. If continued disruptions occur, the Chairperson or presiding Board member may recess the meeting until order is restored, and, if necessary, may clear the Chambers or Committee Room of persons participating in the disturbance.

10. POB Motions and Actions. To effectively insure consistency in governance, the CPOA shall post on its website, under one link, all motions made and approved, all motions tabled, and all motions that fail.

ARTICLE III -- ORGANIZATION OF THE POLICE OVERSIGHT BOARD

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

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

- A. The Chairperson shall:
 - (1) Call the POB to order and, upon a quorum being present, proceed to business;
 - (2) Preserve order and decorum and, during POB meetings, have general direction of the Vincent E. Griego Chambers or any location where the meeting is held;
 - (3) Have the responsibility for preparation of the agenda and dissemination of the agenda with the public notice for the meeting;
 - Decide all questions of order, subject to a Board member's right to appeal to the POB as a whole;
 - (5) Have the right to speak, as other Board members, on general questions from his or her chair;
 - (6) Vote upon all questions in the same manner as other Board members;

3

(7) Announce the result promptly on the completion of every vote;

Commented [A5]: From Chelsea: The CPOA shall post on its website, under one link, all motions made and approved, all motions tabled, and all motions lost so that the POB can govern itself consistently as the composition of the Board changes over time.

Commented [A6]: Does the CPOA really want to get into this type of tracking? It strikes me as a lot of additional work that is not required by the CASA or the Ordinance

Commented [A7]: Chantal strikes "No officer shall be eligible to immediately succeed himself or herself in the same office." and "March 1st" Note from Chelsea: This also appears in the ordinance and is probably not legit to change, IMO.

Commented [A8]: Ordinance 9-4-1-5(G) includes the language that Chantal proposes stricking. As such, without a change to the Ordinance, I do not recommend that this sentence be removed.

- (8) Appoint all subcommittees, subject to the approval of the POB;
- (9) Sign all resolutions, letters, and official documents on behalf of the POB;
- (10) Receive all formal messages and communications from the Mayor, City Council, and others;
- Hold over or refer to the appropriate subcommittee any issue of interest to the POB;
- (12) Have the authority to sign all agreements for professional/technical services entered into by the POB to facilitate its functions pursuant to applicable procurement statutes and requirements.

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

3. Subcommittees.

A. The POB may create such subcommittees as it deems necessary or desirable in performing the <u>authorized</u> functions it is <u>authorized to performprovided that</u>, <u>membership on such subcommittees shall be limited to POB members</u>. Subcommittees shall consist of any number of Board members fewer than a quorum.

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

C. The <u>subcommittee shall elect a Chairperson who shall Chairperson of a</u> <u>subcommittee shall</u> vote on all matters before the subcommittee in the same manner as other members of the subcommittee. The Chairperson also may make or second motions.

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

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

F. Subcommittees shall report on all matters referred to them without

4

unnecessary delay. If a subcommittee refuses or neglects to report on any matter referred to it, the Chairperson may take the matter from the subcommittee.

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

H. The policies and procedures of the POB apply to all subcommittees, except as otherwise provided and except that subcommittees may establish their own time limitations for witnesses addressing the subcommittee and for debate by members of the subcommittee, and except that notice to the public, including an agenda, shall be given for any regular or special meeting of a quorum of the members of any subcommittee.

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

5. <u>Removal of Members.</u> Any POB member may be removed for cause by a two-thirds vote of either the POB or the City Council. The appointment of any POB member who has been absent and not excused from three consecutive regular or special meetings shall automatically expire effective on the date the POB reports such absence to the City Clerk. The City Clerk shall notify any member whose appointment has automatically terminated and report to the City Council that a vacancy exists requiring an appointment for the length of the unexpired term.

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

A. Required Orientation: Prior to participating invoting on case review recommendations in any POB meetings, newly appointed members must first:

- Be trained by the CPOA staff or CPOA legal counsel on CPOA and Albuquerque Police Department ("APD") rules, policies, and procedures; and
- (2) Attend at least one POB meeting as an observer.

B. Required Training. Each POB member shall complete a training program within the first six months of the member's appointment that consists, at a minimum, of the following:

section. Replace with a disclaimer like this: "While the Open Meetings Act typically does not apply to subcommittees, subcommittees endeavor to act within the spirit of the Open Meetings Act and as such will post their agendas with 72 hours of notice, will allow for 3 minutes of public comment, and will post record and post minutes of their meetings. Subcommittees will comply with the Open Meetings Act in all instances where the Open Meetings Act applies.

Commented [A9]: Chelsea→ Strike all existing language in this

Commented [A10]: Article III, Section 6: Ensure that training requirements contained within this section do not exceed in any instance training requirements set forth in CASA and Ordinance.

Commented [A11]: These requirements match the current version of the Ordinance. The CASA is silent on POB training.

Commented [A12]: From Chelsea, I do not agree. The CASA contains numerous training requirements for "those appointed to the agency." I suppose this could be interpreted as applying only to Ed, but I think that it intends to apply to the POB. However, assuming the Ordinance is consistent with the CASA in this area, then this is already satisfied.

Commented [A13]: Chelsea is correct, the CASA contains training requirements. These requirements match the current version of the Ordinance as well as the CASA (paragraphs 274(a-f)).

Commented [A14]: The Ordinance 9-4-1-5(F) tracks the prior language so I am not sure the POB wants to make this change without changing the Ordinance too?

Commented [A15]: The Ordinance 9-4-1-5(F) tracks the prior language "participating in" so I am not sure the POB wants to make this change without changing the Ordinance too?

5

- Completion of the APD Civilian Police Academy. For purposes of this training requirement, APD may offer an abbreviated, two-day weekend Civilian Police Academy available only to POB members.
- (2) Civil rights training, including the Fourth Amendment right to be free from unreasonable searches and seizures, including unreasonable use of force.
- (3) At least two APD ride-alongs.
- (4) Annual firearms simulation training.
- (5) Internal Affairs training.
- (6) Training provided to APD officers on use of force, including a review and familiarization with all APD policies related to use of force, and including policies related to APD's internal review of force incidents.
- (7) Equity and Cultural Sensitivity training.

(8) Training on the 2014 Department of Justice ("DOJ") Settlement Agreement with the City of Albuquerque (or any subsequent agreements), and Findings Letter of April 10, 2014 (or any subsequent findings letters).

- (9) Training on the Police Oversight Ordinance.
- (10) Training on state and local laws regarding public meetings and the conduct of public officials.
- (11) A briefing that identifies and explains the curriculum of all training received or to be received by APD officers, including any outside training not provided by the City.

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

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

E. CPOA investigators shall receive at least 40 hours of initial training in

6

conducting misconduct investigations within the latter of one year of the operational date of the DOJ Settlement Agreement or one year of hire. CPOA investigators also shall receive at least eight hours of training each year thereafter. The training shall include instruction on APD's policies and protocols on taking compelled statements and conducting parallel administrative and criminal investigations.

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

8. Executive Director

A. Selection and removal of the Executive Director shall be governed by the CASA and, when not in conflict with the CASA, the Police Oversight Ordinance. The term of the Director shall be for three years. Once confirmed, the Director may be removed only upon: 1) a recommendation of removal to the City Council by the affirmative vote of two-thirds of the members of the POB; and 2) acceptance of the POB's recommendation by a simple majority vote of the City Council. The Director shall be responsible for regular-timely informing the Mayor, the City Council, and the public by submitting semi-annual written reports approved by the POB and shall maintain and compile all information necessary to satisfy the semi-annual written reporting. The Director shall schedule and provide a quarterly oral report to the City Council at a regular or special meeting and shall notify the POB at least 10 days prior to the scheduled meeting so members may attend.

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

C. The POB shall annually review the performance of the CPOA Executive Director taking into consideration the obligations and duties prescribed by the Police Oversight Ordinance and the performance of the CPOA Administrative Office.

D. The POB shall provide its annual review of the Executive Director to the City Council upon completion.

E. The Executive Director is responsible for sending responsive replies to emails and communications from members of the public. Unless the communication is a civilian complaint, responses shall be sent within 48 hours.

9. Independent Counsel. The CPOA may retain or employ independent legal

7

Commented [A16]: From Chelsea: Additon of language from the POB for consideration

Commented [A17]: From Chelsea→ This language came from the public. I think it intends to incorporate ordinance language into this document.

Commented [A18]: From Chelsea: The Executive Director is responsible for sending responsive replies to emails and communications from members of the public. Unless the communication is a civilian complaint, responses shall be sent within 48 hours.

Commented [A19]: If this is a concept that the POB wants, I recommend that the response time be extended to at least 72 hours to account for weekends and vacations...

Commented [A20]: From Chelsea→ That's a good idea. This was intended to memorialize a recent board vote on this issue re how to ensure responsive replies to communications from community members.

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

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

ARTICLE IV- PROCEDURES

Definitions.

1.

A. "Use of Force" is defined by the DOJ Settlement Agreement—as may be amended from time to time. means physical effort to compel compliance by an unwilling subject above unresisted handcuffing, including pointing a firearm at a person.

B. "Serious Use of Force" means: (1) all uses of lethal force by an APD officer; (2) all critical firearm discharges by an APD officer; (3) all uses of force by an APD officer resulting in serious physical injury or requiring hospitalization; (4) all head, neck, and throat strikes with an object or neck holds; (5) all uses of force by an APD officer resulting in a loss of consciousness; (6) all canine bites; (7) more than two applications of an ECW on an individual during a single interation, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different officers, or an ECW application for longer than 15 seconds, whether continuous or consecutive; (8) any strike, blow, kick, ECW application, or similar use of force against a handcuffed subject; and (9) more than three strikes with a baton. The term "serious use of force" is defined differently in the Memorandum of Understanding for the Multi-Agency Task Force in which APD participates to investigate officer involved shootings, serious uses of force (as defined in the Memorandum of Understanding), and in-custody deaths. The definition of "serious use of force" in this Agreement is not intended to substitute or alter in any way the definition in the Memorandum of Understanding.

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

3.<u>Amendment of Rules.</u> These rules, or any part thereof, may be amended, repealed, altered or rescinded by a vote of a majority of all POB members.

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

8

2015.9.10

Commented [A21]: Joanne asks if change to the UoF policies require changes in this section and/or in our ordinance.

Commented [A22]: Yes. Should those policies be changed and finalized, the entire document will want to be reviewed to insure it tracks with that those policies provide, including definitions, etc.

I have endeavored to make these changes based on the current version of the CASA but to allow for the definitions to change as the CASA changes. Still, "Serious Use of Force' was omitted as a defined term in the most recent CASA so I am not sure that the POB wants to take this route?

Commented [A23]: The updated CASA drops this as a defined term and adds levels of force (paragraph 48). Does POB want to update to track that change?

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

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

4. <u>**Time Computation.**</u> In computing any period of time prescribed or allowed by these rules or the Police Oversight Ordinance, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Unless otherwise specified, any period prescribed or allowed by these rules that is longer than (10) days shall be calculated as calendar days. If the last day of any designated period is a Saturday, Sunday, or legal holiday, the period will end on the next business day.

5. Order of Business.

A. The POB shall consider business in the following order:

1) Welcome and	d Call to Order
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- (2) Pledge of Allegiance
- (32) Public Comment(43) Review/Approval of Minutes
- (54) Hearings on Requests for Reconsideration
- (65) Findings by POB
- (76) Reports from Sub-Committees
- (87) Reports from CPOA or City staff, including the CPOA Executive Director, Independent Counsel, Mayor, City Council, City Attorney, and Albuquerque Police Department.
- (98) Other Business

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

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

7. Debate.

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

9

2015.9.10

Commented [A24]: Change from Chelsea

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

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

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

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

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

8. Voting.

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

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

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

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

E. An appeal may be made on any decision of the Chairperson. The Board member appealing the Chairperson's decision will speak and the Chairperson may respond. Such appeals shall be acted upon immediately, and no other motions

shall be entertained until the question has been decided. A vote of the majority of the Board members present shall be required to sustain an appeal.

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

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

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

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

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

1. Civilian Complaints.

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

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

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

11

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

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

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

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

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

H. The Executive Director shall explicitly identify and recommend to the POB one of the following dispositions for each allegation of misconduct in a civilian complaint:

 "Unfounded," where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officerAPD Employee;

Commented [A26]: Joanne suggests changing "officer" to "APD Employee Commented [A27]: Joanne suggests changing "officer" to "APD Employee

Commented [A25]: Joanne asks "is the history of discip

ot been timed out?" Ou

(2) "Sustained," where the investigation determines, by a preponderance of the evidence, that the alleged misconduct did occurF;

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

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

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

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

Commented [A31]: Joanne asks if the Internal Affairs Bureau has been renamed
Commented [A32]: Yes, it is now called the Internal Affairs
Division

13

2015.9.10

Commented [A28]: Joanne asks if we should expand the definition to include what has been discussed with the monitor/all of the definitions we are currently using

Commented [A29]: Chelsea says: I second Joanne, expand "admin closed" definition despite an inconsistently with CASA definition.

Commented [A30]: The current CASA, paragraphs 192(f) and 193, track this but if POB wants to change this, I will need more information about how POB wants it changed.

L. The Executive Director, CPOA staff, and POB members may file complaints against APD personnel pursuant to the Police Oversight Ordinance in the same manner as any other citizen. Such complaints shall be addressed as follows:

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

2. Serious Uses of Force and Officer Involved Shootings.

A. The Executive Director shall receive all APD reports of serious uses of force (as defined in DOJ Settlement Agreement—as may be amended from time to time) and officer involved shootings. The Executive Director shall timely review these materials and assign them for investigation or review by the investigative staff.

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

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

14

agency indicating that doing so would interfere with a criminal investigation, the Executive Director only may proceed after obtaining approval to do so through a 2/3 vote of the POB.

3. Investigation Protocol.

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

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

 There will be no automatic preference for an <u>APD</u> officer or <u>APD</u> <u>Employee</u>'s statement over a non-officer's statement, nor will the Executive Director or

investigator disregard a witness's statement merely because the witness has some connection to the complainant or because of any criminal history or any concern regarding mental illness.

- (2) During its investigation, the CPOA shall take into account any convictions for crimes of dishonesty of a civilian complainant or any witness, but only as relevant to credibility.
- (3) The CPOA shall take into account the record of any involved officers who have been determined to have been deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation. The investigator shall, at a minimum, obtain from Internal Affairs all information related to such prior determinations for any officer whose credibility is at issue in any investigation.

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

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

4. Access to APD Documents and Subpoenas.

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

15

2015.9.10

Commented [A33]: Joanne suggests changing "officer's" to "APD officer or APD employee" Executive Director upon reasonable notice.

B. The POB may issue subpoenas on its own initiative. When the POB issues a subpoena, a showing of relevance is not required and an appeal need not be pending.

C. The subpoena shall be issued by the City Clerk's Office and signed by the Chair or his/her designee.

D. Any applicable witness and travel fees and costs associated with service of process shall be paid by the CPOA.

5. POB Review.

whether:

A. The POB shall review the proposed findings and recommendations the Executive Director prepares, and shall by majority vote of members present:

- (1) Approve the findings and recommendations as proposed;
- (2) Approve other findings and recommendations as the POB determines are supported by the investigation file;
- (3) Defer action on the matter to allow for further investigation or analysis by the Executive Director.

(4) Return the findings correspondence to the CPOA for editing, proofreading, or other requested improvements to the draft.
(5) Findings correspondence returned to the CPOA pursuant to subsection 4 or this subsectioon will be returned to the POB for review of the final work product pursuant to this section.

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

C. In reviewing completed investigations, the POB shall assess and document

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

D. For civilian complaints, the Executive Director shall prepare and submit a public record letter to the civilian complainant, with a copy to the Chief, that outlines the findings and recommendations the POB approved. The Executive Director shall transmit that

16

2015.9.10

Commented [A34]: Joanne asks "not only for audit purposes?"

Commented [A35]: I believe that this issue is included in the pending proposed amendments to the Ordinance. The CASA, paragraph 283 provides: "The City shall grant the agency the authority to subpoena such documents and witnesses as my be necessary to carry out the agency functions indentified in this Agreement [CASA]." letter the next business day following the meeting during which the POB took action on the complaint.

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

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

Requests for Reconsideration. 6.

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

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

- (1) a policy was misapplied in the evaluation of the complaint;
- (2)the findings or recommendations were arbitrary, capricious or constituted an abuse of discretion; or
- (3)the findings and recommendations were not consistent with the record evidence.

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

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

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

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

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

15 minutes for the complainant or representative (1)

17

2015.9.10

Commented [A36]: Chelsea: fix misnumbering, ensure this section comports with the CASA and Ordinance.

Commented [A37]: I am not sure what misnumbering needs to be fixed? The terms set forth herein track the Ordinance. The CASA does not provide details for appeals, only that "The City shall permit complainants a meaningful opportunity to appeal the Executive Director's findings to the agency." Paragraph 287

Commented [A38]: From Chelsea→ My apologies. When I started this project I was referring to a hard copy of these procedures provided in my training binder and they were not the current version. I think the numbering was 1,2,4. However, the findings correspondence we send out are using different language and have a total of four possible criteria as opposed to 3: A) The APD policy or APD policies that were considered by the POB were the wrong policies or they were used in the wrong way; or,

B)The APD policy or APD policies considered by the POB were chosen randomly or they do not address the issues in your complaint; or,

C)The findings of the POB had no explanation that would lead to the conclusion made by the POB; or,

D)The findings by the POB were not supported by evidence that was available to the POB at the time of the investigation.

- (2) 5 minutes for the police officer, if present
- (3) 10 minutes for APD
- (4) 10 minutes for the CPOA Executive Director or designee
- (5) 5 minutes for the complainant or representative

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

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

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

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

- (1) No Board member shall communicate outside a hearing with the complainant or the complainant's representative.
- (2) No Board member shall knowingly communicate with a member of the public or an organization about the subject of the request for reconsideration. Information and correspondence that is not in the record at the time the request for reconsideration is submitted only may be considered in making a decision if it is accepted as new evidence as set forth above.
- (3) No Board member shall conduct their own investigations or add their own evidence to the record regarding any hearings on requests for reconsideration.

- (4) Any correspondence regarding the subject of a request for reconsideration that is an ex parte communication and is inadvertently received by a Board member shall be delivered to the CPOA Executive Director and be available for review by the complainant.
- (5) Notwithstanding the above, the CPOA Executive Director and CPOA staff may, upon the request of a Board member, communicate with that Board member at any time and by any means. Copies of any written materials from the CPOA Executive Director shall be distributed to all parties.

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

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

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

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

9. Disciplinary Recommendations.

A. The POB may, in its discretion, recommend officer discipline from the Chart of Sanctions for investigations that result in sustained civilian police complaints. The POB also

19

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Commented [A39]: Joanne asks "is this happening now?"

may recommend discipline based on any findings that result from review of internal affairs investigations, including but not limited to officer involved shootings.

B. Imposing discipline the POB recommends is at the discretion of the Chief, but if the Chief does not follow the POB's disciplinary recommendation, the Chief shall respond in writing, within thirty (30) days, with the reason as to why the recommended discipline was not imposed.

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

11. Policy Recommendations.

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

B. By majority vote, the POB may recommend policies related to programs and procedures or other matters relating to APD.

C. The Chief must respond to any policy recommendations from the CPOA in writing within forty-five (45) days. The Chief's response must indicate whether the APD will follow the recommendations through standing operating procedures, whether the recommendations should be adopted as policy by the City Council, or whether the Department will not follow any of the policy recommendations and any reasons why they will not be followed.

D. The POB must dedicate a majority of its time to policy recommendations.

12. Monitoring.

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

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

20

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

Reporting. The Executive Director shall submit to the POB draft semi-annual 13 written reports for the POB's approval for submission to the Mayor and City Council. The reports shall include, but need not be limited to:

A. Data relating to the number, kind and status of all complaints received during the reporting period, including those complaints sent to mediation.

B. Discussion of issues of interest the POB has undertaken, which may include suggested policy and/or procedural changes, a listing of complaints and allegations by Council District, statistical ethnicity of subject officers, statistical ethnicity of complainants, other demographic category of complainants (if known, race, ethnicity, age, sex, gender expression or gender identity, sexual orientation, and limited English) and updates on prior issues and/or recommendations.

C. The CPOA's findings and the Chief's issuance of discipline on those findings, and the ongoing disciplinary trends of the APD.

D. Information on all public outreach initiatives the POB or Executive Director undertook during the reporting period, including speaking engagements, public safety announcements, and/or public information brochures on the oversight process.

E. The status of the long-term planning process, identifying major problems, policy suggestions, and studies.

F. Identification of any matters that may necessitate the City Council's consideration of legislative amendments to the Police Oversight Ordinance.

G. The amount of time the POB dedicated to policy activities relative to its other activities over the preceding quarter.

H. Discussion, with supporting data, of whether the CPOA has a sufficient number of well-trained staff assigned and available to complete and review thorough and timely misconduct investigations in accordance with the requirements of the Settlement Agreement/Consent Decree between the City of Albuquerque and the DOJ.

ARTICLE VI -- BUDGET

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2015.9.10

Commented [A40]: Joanne asks if we should do this with

Commented [A41]: From Chelsea: Insert section that corresponds to the obligations of submitting semi-annual reports found in the CASA and the City Police Oversight Ordinance

Commented [A42]: If POB wants to make changes to this section. I need guidance about which changes it would like.

CASA paragraph 292(a-h) addresses what is to be included in these reports

a) number and type of complaints received and considered, including any dispositions by the Executive Director, the agency, and the Chief;

b) demographic category of complainants

c) number and type of serious force incidents received and considered, including any dispositions by the Executive Director, the agency, and the Chief;

d) number of officer-involved shootings received and considered, including any dispositions by the Executive Director, the agency,

and the Chief; e) policy changes submitted by APD, including any dispositions by the Executive Director, the agency, and the Chief; f) policy changes recommended by the agency, including any

f) policy changes recomm dispositions by the Chief;

g) public outreach efforts undertaken by the agency and/or Executive Director; and

h) trends or issues with APD's use of force, policies, or training

The Ordinance, 9-4-1-10 addresses reports and what is be included in the semi-annual reports. These policies and procedures track those requirements verbatim. Section H, however, is not part of the Ordinance

Commented [A43]: From Chelsea→ I don't remember what I was thinking ab ut here. I say disregard my previous comment

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

ARTICLE VII -- CONFIDENTIALITY AND ACCESS TO INVESTIGATION MATERIALS

1. POB Hearings.

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

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

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

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

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

2. **POB Access to Investigation Materials.**

The POB shall have reasonable access to the following docuements and information:

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

B. Information that could be construed to be covered by *Garrity v. New Jersey*, 385 U.S. 493, 500 (1967) will be made available to the POB on application submitted in writing pursuant to a majority vote of the POB. Where the POB votes to review such material, it shall do so only in a closed session to the extent permitted under the New Mexico Open Meetings Act.

C. The POB shall maintain the confidentiality of any *Garrity* material or records that are made confidential by law. The POB is subject to the same penalties as the custodian of those records for violating confidentiality requirements. In addition to any other penalty, any POB member or other person who violates his or her confidentiality obligations shall be removed from the POB and shall be subject to

22

prosecution for a misdemeanor subject to the penalty provisions set forth in § 1-1-99.

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23

CIVILIAN POLICE OVERSIGHT AGENCY

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

Edward Harness, Esq., Executive Director

October 11, 2018

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

Enclosure: NMSA 1978 § 32A-2-32. Confidentiality; records. Highlighted and attached for ease of reference.

Re: Confidentiality of records law for juveniles, standard operating procedure proposal.

Dear Chief Michael Geier,

Currently, APD's Standard Operating Procedure 2-22 on Juvenile Delinquency fails to include a section that brings the department into compliance with New Mexico's confidentiality of records laws for juveniles. Failure to incorporate New Mexico's confidentiality laws often results in violations of NMSA 1978 § 32A-2-32, which prohibits all disclosure of records pertaining to a child—including records relating to a child's delinquent offenses.

Violating this statute is a misdemeanor offense and may open the department up to costly civil liability. New Mexico's confidentiality rules seek to protect children from prohibitive stigmas and were passed unanimously. Typically, this statute is violated when the department releases information like names, alleged delinquent offenses, and status information of juveniles— like whether they have warrants or are in the custody of CYFD. This type of information is not uncommonly released to news stations, newspapers, and websites like Nextdoor.

SOP 2-22, the SOP within which these confidentiality laws would likely appear, should soon be up for annual review. As such, the Police Oversight Board asks that APD develop this SOP by incorporating a section that aides the department's compliance with this important confidentiality statute. Given that 2-22 is set to be examined, at this time the POB asks for your assistance in ensuring the Office of Policy Analysis receives and considers this recommendation. Likewise, the POB will also provide the Office of Policy Analysis a copy of this letter.

In the event that SOP 2-22 makes its way through the review process absent addressing this issue, the POB asks that you then respond within the delegated 45 day period as to why this recommendation was rejected.

Sincerely Police Oversight Board

City Council President Ken Sanchez Mayor Tim Keller City Attorney Esteban Aguilar, Jr James Ginger Ph.D. United States Attorney John C. Anderson City Clerk Katy Duhigg

CC:

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight BoardLeonard Waites, ChairJoanne FineValerie St. JohnChelsea N. Van DeventerEdward Harness, Esg., Executive Director

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ALBUQUERQUE POLICE OVERSIGHT BOARD RESOLUTION NO.

WHEREAS, the Albuquerque Police Oversight Board met in regular session in the City Council Chambers on October 11, 2018, at 5:00 p.m., as required by law; and

WHEREAS, Section 10-15-1(B) of the Open Meetings Act (NMSA 1978, Sections 10-15-1 to -4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission, administrative adjudicatory body or other policymaking body of any state or local public agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times; and

WHEREAS, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and

WHEREAS, Section 10-15-1(D) of the Open Meetings Act requires the Police Oversight Board to determine annually what constitutes reasonable notice of its public meetings;

NOW, THEREFORE, BE IT RESOLVED by the Police Oversight Board that:

- 1. All regular meetings shall be held in the City Council Chambers for the City of Albuquerque on the second Thursday of every month at 5:00 p.m., or as indicated in the meeting notice.
- 2. The agenda for regular meetings will be posted at least seventy-two hours prior to the meeting at the offices of the Civilian Police Oversight Agency and on the Civilian Police Oversight Agency's website at www.cabq.gov/cpoa.
- 3. Notice of regular meetings other than those described in Paragraph 2 will be given ten days in advance of the meeting date. The notice will include a copy of the agenda or information on how a copy of the agenda may be obtained. If not included in the notice, the agenda will be available at least seventy-two hours before the meeting and posted on the Civilian Police Oversight Agency's website at www.cabq.gov/cpoa.
- 4. Special meetings may be called by the Chairman or a majority of the members upon three days notice. The notice for a special meeting shall include an agenda for the meeting or information on how a copy of the agenda may be obtained. The agenda will be available at least seventy-two hours before the meeting and posted on the Civilian Police Oversight Agency's website at www.cabq.gov/cpoa.
- 5. Emergency meetings will be called only under unforeseen circumstances that demand immediate action to protect the health, safety and property of citizens or to protect the public body from substantial financial loss. The Police Oversight Board will avoid emergency meetings whenever possible. Emergency meetings may be called by the

Chairman or a majority of the members with twenty-four hours prior notice, unless threat of personal injury or property damage requires less notice. The notice for all emergency meetings shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda. Within ten days of taking action on an emergency matter, the Police Oversight Board will notify the Attorney General's Office.

- 6. For the purposes of regular meetings, notice requirements are met if notice of the date, time, place and agenda is posted at the offices of the Civilian Police Oversight Agency and on the Civilian Police Oversight Agency's website at www.cabq.gov/cpoa.
- 7. Copies of the written notice shall also be mailed to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.
- 8. For the purposes of special meetings and emergency meetings, notice requirements are met if notice of the date, time, place and agenda is posted at the offices of the Civilian Police Oversight Agency and on the Civilian Police Oversight Agency's website at www.cabq.gov/cpoa. Telephone notice also shall be given to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.
- 9. In addition to the information specified above, all notices shall include the following language:

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact

Katrina Sigala at 924-3770

at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact

Katrina Sigala at 924-3770

if a summary or other type of accessible format is needed.

- 10. The Police Oversight Board may close a meeting to the public only if the subject matter of such discussion or action is excepted from the open meeting requirement under Section 10-15-1(H) of the Open Meetings Act.
 - (a) If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the Police Oversight Board taken during the open meeting. The authority for the closed meeting and the subjects to be discussed shall be stated with reasonable specificity in the motion to close and the

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vote of each individual member on the motion to close shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in the closed meeting.

- (b) If a closed meeting is conducted when the Police Oversight Board is not in an open meeting, the closed meeting shall not held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting and the subjects to be discussed with reasonable specificity, is given to the members and to the general public.
- (c) Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.
- (d) Except as provided in Section 10-15-1(H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by vote of the Police Oversight Board in an open public meeting.

Passed by the Police Oversight Board

this 11th day of October, 2018.

32A-2-32. Confidentiality; records.

A. All records pertaining to the child, including all related social records, behavioral health screenings, diagnostic evaluations, psychiatric reports, medical reports, social studies reports, records from local detention facilities, client-identifying records from facilities for the care and rehabilitation of delinquent children, pre-parole or supervised release reports and supervision histories obtained by the juvenile probation office, parole officers and the juvenile public safety advisory board or in possession of the department, are confidential and shall not be disclosed directly or indirectly to the public.

B. The disclosure of all mental health and developmental disability records shall be made pursuant to the Children's Mental Health and Developmental Disabilities Act [32A-6A-1] NMSA 1978].

C. The records described in Subsection A of this section, other than mental health and developmental disability records, shall be disclosed only to any of the following, provided that the agency, person or institution receiving information shall not re-release the information without proper consent or as otherwise provided by law:

- (1) court personnel;
- (2) the child's court appointed special advocates;
- (3) the child's attorney or guardian ad litem representing the child in any matter;
- (4) department personnel;
- (5) corrections department personnel;
- (6) law enforcement officials when the request is related to the investigation of a crime;
- (7) district attorneys or children's court attorneys;
- (8) a state government social services agency in any state;

(9) those persons or entities of a child's Indian tribe specifically authorized to inspect such records pursuant to the federal Indian Child Welfare Act of 1978 or any regulations promulgated under that act;

(10) tribal juvenile justice system and social service representatives;

(11) a foster parent, if the records are those of a child currently placed with that foster parent or of a child being considered for placement with that foster parent, when the disclosure of the information is necessary for the child's treatment or care and shall include only that information necessary to provide for treatment and care of the child;

(12) school personnel involved with the child if the records concern the child's educational needs, but shall only include that information necessary to provide for the child's educational planning and needs;

(13) a health care or mental health professional involved in the evaluation or treatment of the child, the child's parents, guardians or custodian or other family members;

(14) representatives of the protection and advocacy system;

(15) the child's parent, guardian or legal custodian when the disclosure of the information is necessary for the child's treatment or care and shall include only that information necessary to provide for the treatment or care of the child;

(16) any other person or entity, by order of the court, having a legitimate interest in the case or the work of the court who agrees not to otherwise release the records; and

(17) the child, if fourteen years of age or older.

D. If disclosure of otherwise confidential records is made to the child or any other person or entity pursuant to a valid release of information signed by the child, all victim or witness identifying information shall be redacted or otherwise deleted.

E. Whoever intentionally and unlawfully releases any information or records closed to the public pursuant to this section or releases or makes other unlawful use of records in violation of this section is guilty of a petty misdemeanor.

F. The department shall promulgate rules for implementing disclosure of records pursuant to this section and in compliance with state and federal law and the Children's Court Rules [10-101 NMRA].

History: 1978 Comp., § 24232, enacted by Laws 1993, ch. 77, § 61; 2003, ch. 225, § 15; 2005, ch. 189, § 24; 2009, ch. 239, § 28.