

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT BOARD

Thursday, December 14, 2017 – 5:00 PM  
Vincent E. Griego Chambers, Basement Level  
City/County Government Center – One Civic Plaza NW  
Albuquerque, New Mexico

### Members Present:

Joanne Fine, Chair  
Valerie St. John, Vice-chair  
Johnny J. Armijo  
Susanne Brown (left early)  
Eric Cruz (left early) *gf*  
Chantal M. Galloway  
Dr. William Kass (in late)  
Rev. Dr. David Z. Ring III  
Leonard Waites

### Others Present

Edward Harness, CPOA  
Erin O'Neil, CPOA  
Paul Skotchdopole, CPOA  
Michelle Contreras, CPOA  
Maria Patterson, CPOA  
Deputy Chief Garcia APD  
Lt. Jennifer Garcia, APD  
Matthew Jackson, Esq.  
Sarita Nair, Mayor's Office  
Jeremy Schmehl, Asst. City Atty

### Meeting Minutes

- I. Welcome and call to order** – Chair Fine called to order the regular meeting of the Police Oversight Board at 5:00 p.m.
- II. Pledge of Allegiance** – Member Cruz led the meeting in the Pledge of Allegiance.
- III. Mission Statement** – Chair Fine read the POB's Mission Statement.  
\*\*\* Member Kass and Member Brown arrived at the beginning of item IV. a. \*\*\*
- IV. Approval of the Agenda**
- a) A motion was made by Vice-chair St. John to amend the agenda by moving the Personnel Subcommittee report to item VII. Member Waites seconded the motion. The motion was carried by the following vote:  
**For: 9 – Armijo, Brown, Cruz, Fine, Galloway, Kass, Ring, St. John, Waites**
  - b) Member Brown noted that she would need to leave the meeting at 5:45 p.m.
  - c) New member Chantal Galloway introduced herself to the public.
  - d) The board acknowledged the induction of Member Armijo into the NM Music Hall of Fame.
- V. Public Comments** – None.
- VI. Review and Approval of Minutes.** For more information about minutes from prior POB meetings, please visit our website here: <http://www.cabq.gov/cpoa/police-oversight-board/pob-agenda-meeting-minutes>
- a) **Approval of the Minutes from November 9, 2017**

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

1. Copies of the draft minutes from November 9, 2017 POB meeting were distributed to each member in their packets.
2. A motion was made by Member Ring to approve the minutes as written. Member Armijo seconded the motion. There was no discussion. The motion was carried by the following vote:  
**For: 9 – Armijo, Brown, Cruz, Fine, Galloway, Kass, Ring, St. John, Waites**

**VII. CPOA Director Edward Harness’s Evaluation and Process (formerly item IX. d.**

**1.) – *Member Cruz***

- a) Member Cruz explained the details of Director Harness’s Evaluation. On November 13, 2017, the Personnel Subcommittee had its first meeting to evaluate Director Harness’ performance. A survey was sent to various parties. There were nine respondents and the results were discussed in the Personnel Subcommittee meeting on December 5. Director Harness was scored from 1 to 5 (5 is highest) in the following categories:
  1. Contributions towards the purpose of the CPOA office: 5
  2. Community outreach: 4.8
  3. Policy recommendation: 4.8
  4. Quality investigations: 4.6
  5. Management of staff: 4.5
  6. Transparency: 4.6
  7. Independence: 4.6
  8. Data analysis: 4.4
  9. Training for POB and staff: 4.3
  10. Reporting: 4.3
  11. Collaboration and relationships: 4.6
  12. Communications: 4.8
  13. Maintaining confidentiality: 5.0
  14. Overall: 4.6
- b) Member Cruz provided an overview of what the Personnel Board would like to see from Director Harness moving forward:
  1. A data analysis plan
  2. A community outreach plan
  3. A committee chair check-in, though a time and date has not been set.
- c) Member Cruz communicated with Patsy Pino at the City’s financial office about Director Harness’s contract, which she will need to review. Chair Fine sought clarity about Director Harness’s contract and salary. Director Harness explained that his contract and pay are ultimately decided by the City based on the board’s recommendations to City Council. Currently Director Harness’s contract goes

through October of 2018. Patsy Pino will be able to clarify how this process works on Monday, December 18.

- d) As a member of the Personnel Subcommittee, Chair Fine related the subcommittee's suggestions for improving the evaluation process, including sending future surveys out through SurveyMonkey. Member Cruz noted that certain aspects of the survey were confusing. Chair Fine agreed and recommended that next the questions will be clearer and more closely tied to the job description.
- e) **Data Analysis Plan.** Chair Fine went into detail about what they would like to see in terms of a data analysis plan.
  - 1. Chair Fine argued that it would be better to be proactive and decide in the data plan what data is needed and then trying to see how APD can accommodate this rather than first trying to find out what data APD has and then extrapolating from that.
  - 2. Member Brown suggested that the policies APD passes, especially those under the CASA, all include a statement about the type of data that will be collected to better decide whether the policy is functioning well and where revisions are needed.
  - 3. Member Kass noted that this will be addressed in his Policies and Procedures Subcommittee report but summarizes his points by saying that if the CPOA is mentioned in the policy then the CPOA should decide exactly what it is APD needs to furnish to the CPOA.
- f) **Community Outreach Plan.** Chair Fine restated that results from the survey suggest the Community Outreach Subcommittee's shortcomings are due to a lack of vision and called for a proactive approach to determining Outreach's mission.
  - 1. Member Armijo replied that Outreach is going to have a special meeting on January 22, 2018 to clarify what Outreach is and where it should be headed.
  - 2. Chair Fine added that the members of the board cannot represent the entire community which means that Outreach needs to have an action plan for connecting with and listening to citizens.
- g) **Committee Chair Check-ins.** Chair Fine announced that this year they instituted a weekly check-in between Chair Fine and Director Harness.
  - 1. Chair Fine suggested that they get a rundown of the weekly check-ins in writing for all of the board members so that everyone knows what is going on and can share information (though it all has to come from Ed to the members because they are not open meetings). Member Waites agreed that this would be helpful.

**h) Evaluation Aftermath.** Member Cruz asked how the board should move forward with regards to Director Harness's percentages without information from City Human Resources or finances.

1. Chair Fine suggested that the board make a recommendation, as they did last year, and empower the Personnel Subcommittee to negotiate this later on.

2. Member Cruz made a motion to accept the evaluation and to empower the Personnel Subcommittee to negotiate percentages at a later date. Member Armijo seconded. The motion was carried by the following vote:

**For: 9 – Armijo, Brown, Cruz, Fine, Galloway, Kass, Ring, St. John, Waites**

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

**a) Administratively Closed Cases**

167-17            171-17            181-17            183-17            184-17  
188-17            191-17            192-17            193-17

1. Chair Fine described the nature of administratively closed cases as a whole and the role of the Case Review subcommittee to Member Galloway.

2. Member Waites motioned to approve the administratively closed cases as presented. Vice-chair St. John seconded the motion and there was no discussion of any cases. The motion was carried by the following vote:

**For: 7 – Armijo, Brown, Cruz, Fine, Ring, St. John, Waites**

**Abstain: 2 – Member Galloway and Member Kass will abstain from voting on cases until after the completion of their training.**

**b) Cases Investigated**

113-17

3. Member Waites made a motion, if there was no discussion, for the *Case Investigated* to be approved as presented. Member Cruz seconded the motion. The motion was carried by the following vote:

**For: 7 – Armijo, Brown, Cruz, Fine, Ring, St. John, Waites**

**c) Serious Use of Force/Officer Involved Shooting Cases**

I-48-14            I-119-14            I-70-14

1. Director Harness read the letter to the chief of police regarding case I-48-14 and concluded that the involved officers' conduct was in compliance. Member Ring asked about the allegation and Director Harness replied that the fact that there was an investigation meant that there was an underlying allegation.

Member Waites motioned to accept Director Harness's recommendation for

exoneration. St John seconded the motion. The motion was carried by the following vote:

**For: 7 – Armijo, Brown, Cruz, Fine, Ring, St. John, Waites**

2. Director Harness read the letter explaining his recommendations for I-119-14. Director Harness found that the alleged conduct occurred however it did not violate APD policies or procedures. Member Armijo motioned to accept Director Harness’s recommendation to exonerate the officers. Member Brown seconded. The motion was carried by the following vote:

**For: 7 – Armijo, Brown, Cruz, Fine, Ring, St. John, Waites**

3. Director Harness read the letter to the chief of police regarding I-70-14. The CPOA recommends exoneration of the involved officer. Member Waites motioned to accept the recommendation for the case. Member Cruz seconded the motion. The motion was carried by the following vote:

**For: 7 – Armijo, Brown, Cruz, Fine, Ring, St. John, Waites**

4. **Follow-up.** Director Harness explained that these cases were part of the backlog from APD and IRO. Chair Fine reminded everyone that the board decided to investigate cases regardless of how much time has passed.
5. **Review Plan.** Chair Fine explained that the Case Review Subcommittee and the board will discuss one-third of the 26 cases in January, one-third in February, and the final third in March. She also asked requested that APD makes sure case documents are legible, organized, and right-side-up.
6. **Agenda Recommendation.** Member Ring noted his confusion athaving the Serious Use of Force cases under the heading “Consent Agenda Cases” on the agenda. It was decided that in future agendas, Serious Use of Force cases will have their own section.
7. **Format.** Member Cruz asked about the new format of the case findings. Director Harness explained that this is the way he has done it for the last four or five times. Member Brown noted her appreciation for the format.

**IX. POB’s Review of Garrity Materials.**

- a) There were no cases.

**X. Reports from Subcommittees**

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

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

Member Ring gave a report on behalf of the Community Outreach Subcommittee, which met on December 7, 2017, as follows:

1. **New Member.** The subcommittee welcomed new Subcommittee member Valerie St. John.

2. **Outreach Update.** Members of the subcommittee attended three of six CPC meetings and have made plans for additional CPC meetings and community center meetings.
3. **New Chair.** Come January, the Community Outreach Subcommittee will welcome Member Armijo as its new chair.
4. **Outreach Subcommittee Goals and Objectives.** The Community Outreach Subcommittee will have a special meeting on January 2, 2018 to fully discuss the subcommittee's goals, objectives, and timelines.

OK  
~~Handwritten signature~~

5. **Outreach Efforts.**

- a. Member Ring described the Valley CPC he attended. It was located in a police academy, half of the attendees were officers, and there was a 90-minute presentation about crime in Albuquerque with no opportunity for discussion.
- b. Member Kass explained that at the Southeast CPC he made contact with Sergeant Roger Legendre, who has a Community and Police Together outreach team. Member Kass followed up with Sgt. Legendre and a couple of other members of that department because Member Kass finds it is useful to know what APD is doing in its own outreach meetings.

6. **Next Meeting.** There will not be a regular Community Outreach Subcommittee meeting in January. However, there will be the special meeting on January 2, 2018 and the subcommittee will also meet with Southwest Area's CPC on January 10, 2018.

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b) **Policy and Procedure Review Subcommittee – William Kass** - For more information about the POB Policy and Procedure Subcommittee meetings, agendas and minutes, please refer to the website located here:

<http://www.cabq.gov/cpoa/subcommittees/policy-procedure-review-committee>

Member Kass gave a report on behalf of the Policy and Procedure Review Subcommittee, which met on November 30, 2017, as follows:

1. **Suggestions for Improving Policy Processes.**

- a. Member Kass emphasized the need to integrate the CPOA's policy process with APD's policy process. The development of APD's SOP 3-52 has not helped and the board needs to consistently review what has come out of that SOP's development.
- b. Member Kass is developing connections with people who run the Office of Policy Analysis (OPA). Member Kass suggested that the Subcommittee form a group to deal with DOJ concerns and the board's concerns with APD's policy process.

- c. Chair Fine noted that prior to Major Tyler leaving the board had planned for regular meetings between a leader in APD and CPOA's committee chairs in order to have an ongoing, overarching conversation about how to meld these policies. Chair Fine would still like to make such meetings happen.
2. **SOPs.** Member Kass noted that one option for proceeding is to focus on the places the CPOA is specifically mentioned in the ordinance. Member Kass has been working with Diane McDermott to identify SOPs that may be useful in creating a position for us to receive more data.
  - a. The committee suggests modifying SOP 3-41, which relates to complaints involving department policy or personnel, to include a contact who will furnish that data. Member Kass also suggests that rather than recommending specific language, let APD decide on the language and focus on guiding principles rather than sentences structure.
  - b. Member Brown countered there is a lot of slippage when it comes to implementation and that it would be beneficial to go through the SOPs line by line to plan how policies will be carried out.
  - c. Member Kass also brought up SOP 3-44, which deals with timelines of response, access to data and access to use of force cases, and noted the board's need for specifics about how all that is handled. In that way, modifying SOP 3-44 might also be useful.
3. **Policy Recommendation Procedure.** The board discussed their expectations for hearing about and voting on policy recommendations before they are implemented.
  - a. Member Kass stated that he has put together a list of loose ends of policy ideas and recommendations and shopped list around to those who are interested in order to get a more comprehensive look at policy. He also suggested that a key focus should be integrating our policy with APD's policy and SOP 3-52 could be a good avenue for working toward that.
  - b. Chair Fine asked if there were recommendations within this list that had not been presented to the board. Member Kass replied that some had not been presented to the board or even discussed. He added that anyone can bring recommendations to APD's OPA and do not require approval of the board.
  - c. Chair Fine reminded the board that there are three or four members of each committee yet policy is supposed to be 51 percent of what the board and warned against taking suggestions on policy from

the committee to implementation without the board approving them first.

- d. Vice-chair St. John and Member Armijo agreed that the whole board should be able to approve the recommendations.

4. **Motion Regarding Policy Recommendations.** Vice-chair St. John made a motion that, all recommendations made during Policy and Procedure Subcommittee meetings have to be presented to and voted on by the board. Member Armijo seconded.

- a. Member Kass argued that policy meetings are dynamic and thus there is a logistical problem with having to present every recommendation to the board. Member Kass added that he understands one of his obligations as a board member and subcommittee chair is to represent the POB in PPRB and OPA matters.
- b. Member Waites expressed that his chief concern was the board staying updated on the changes that are suggested and implemented. Member Brown offered the solution of being made aware of the topics and dates that such matters will be discussed and then later obtaining the details via email. Waites suggested that reports of these decisions could be added to meeting agendas.

**\*\*\*Member Brown left at 6:15 p.m. \*\*\***

- c. Director Harness distinguished between participating in OPA, SOPRC, etc. as a delegate of the CPOA to participate in those processes versus presenting policy recommendations that came out of a subcommittee. He reminded members to follow the ordinance.
- d. Member Waites again noted his desire for knowing what is being presented or discussed and what the outcome of presenting the policy recommendation is whether the recommendation was formal or informal.
- e. Member Kass explained that the subcommittee has come up with some recommended language for SOP 3-44 and will circulate it soon.
- f. Member Kass wanted to clarify the distinction between a minor suggestion, which can be brought to APD by any member of the public, and a more formal one which goes to the chief and should definitely go through the board first.
- g. Attorney Jackson noted that there is still a motion pending. He also explained that this discussion has potential Open Meeting Act implications; committees of the board are not subject to the Open



Meeting Act because they do not constitute a quorum. Once a committee starts taking actions that legally bind the board, however, it becomes subject to the Open Meetings Act. Attorney Jackson also cautioned against relying on email for reports excepting a weekly update email, which is fine because it's one-way communication from staff to board.

- h. Waites restated that what he expects from chairs of committees and other committee members is simply a report on what has happened, which does not necessarily need to be detailed or in the form of an email. Chair Fine added that the board has to be involved in policy process and at some point there has to be a connection to the committee and a connection to the board.
  - i. Dr. Kass stated that no formal recommendations have been made but there are smaller, less formal recommendations that need to be made and require support from various groups. Member Kass suggested that what the board needs to do is make a distinction between the formal recommendations the committees make and informal recommendations.
  - j. Member Galloway suggested amending the motion to apply to all committees.
  - k. Member Cruz felt that we should not vote on the motion because that is what the committees are for.
  - l. Member Ring suggested withdrawing the motion because it was too vague. The motion was withdrawn. Chair Fine suggests that Member Kass discuss the matter further with Director Harness.
  - m. Chair Fine stated her belief that it is important for the CPOA to be proactive and introduce policy recommendations that are based on what they learn in the cases. They need to find a way for all of the committees to bring reports back to the rest of the board so that the whole board can learn from them.
  - n. Vice-chair St. John suggested that we leave room in the agenda for next month's meeting to discuss how the board is going to implement this suggestion.
5. **APD to CYFD Handoffs.** Member Kass explained that in Paul Skotchdopole's findings from the Victoria Martins case there was a mention that APD and the CYFD have a better method of coordinating a handoff between the two agencies. Now this topic of APD to CYFD handoffs is on the agenda for the OPA meeting in January. Member Kass

will attend the meeting and report back on the progress, though it would be helpful if he had more influence in the OPA.

\*\*\*Member Cruz left at 6:40 p.m.\*\*\*

6. **Policy 3-41.** Chair Fine asked if there was a timeline for 3-41. Director Harness explained that 3-41, a policy involving complaints against department personnel, was tabled at OPA in order for the board to make recommendations they wanted to make. It is a CASA-related policy and needs to come back to them in January so the subcommittee needs to meet, write those recommendations down, and bring them to the board in January's POB meeting.

\*\*\*Member Brown left at 6:15 p.m.\*\*\*

- c) **Case Review Subcommittee – Leonard Waites.** For more information regarding POB Case Review Subcommittee meetings, agendas and minutes, please refer to the website located here: <http://www.cabq.gov/cpoa/subcommittees/case-review-committee-crc>. Member Waites gave a report on behalf of the Case Review Subcommittee, which met on December 5, 2017, as follows:

1. **Victoria Martins Case.** After a discussion of the Victoria Martins case, public commenter Jim Larson withdrew his public recommendation for the case to be audited. It was suggested that cases of non-concurrence become part of the semi-annual report.
2. **Cases.** The committee discussed the cases presented in this meeting. The board will address one-third of the remaining cases in January, one-third in February, and the final third in March.
3. The Case Review Subcommittee will meet next on Tuesday, January 2, 2018 at 10:00 a.m.

- XI. **Dinner Break.** Member Armijo suggested breaking for dinner at that time. The board adjourned for dinner without making a motion to do so.

----Dinner break began at 6:45 p.m. and the meeting reconvened at 7:13 p.m. ----

## XII. Reports from City Staff

- a) **APD – Deputy Chief Garcia** gave the following report for APD:

1. **Compliance Bureau.** Deputy Chief Garcia introduced himself and his role as head of the new Compliance Bureau.
2. **New Position.** Deputy Chief Garcia is excited to do this and is hoping to solve a lot of issues. Chair Fine noted that Dep. Chief Garcia was mentioned favorably by the Mental Health Response Advisory Committee (MHRAC) and is looking forward to working with him.

3. **Regular Meetings.** Chair Fine hoped that they will be able to find a time to have monthly meetings with Chair Fine, POB committee chairs, and a leader from APD to be able to talk about their issues collectively. Deputy Chief Garcia replied that Chair Fine should definitely contact him about setting that up and also noted that it would be useful to include all of the parties in the settlement agreement.
4. **Questions for APD.**
  - a. Chair Fine noted that they were in the process of getting a shortened academy for the members of the board in a 6-month cycle. Deputy Chief Garcia informed the board that Commander Collins is planning on starting the first academy in February. It will be a series of nine shortened sessions and at the end of 2018 Commander Collins will evaluate the training.
  - b. Member Kass asked who will be in charge of the academy and who will replace Major Tyler. Deputy Chief Garcia replied that Commander Collins will still be at the academy as well as Deputy Chief Rogelio Banez.
- b) **Mayor's Office (previously on agenda as item X. c.).** Sarita Nair introduced herself as the new Chief Administrative Officer. She thanked the board on behalf of Mayor Keller and gave the following report for the Mayor's Office:
  - a. **Recap of New Changes.** Since Mayor Keller has taken office, the office has announced new leadership, including Chief of Police Michael Geier, Deputy Chief Banez, Deputy Chief Harold Padilla, and Deputy Chief Garcia. The new focuses are policing, putting more cops on the street, and staying DOJ-compliant.
  - b. **Press Conference.** There was a press conference about reorganization on December 14, 2017.
    1. Deputy Chief Garcia's new position was announced.
    2. All commanders are now in acting roles to make sure everyone is in the right place.
    3. The rank of major has been eliminated.
    4. Gilbert Gallegos was hired as the new communications director and head of community engagement, which entails working with the PIOs and CPCs. He will be a good point of contact.
    5. The new administration is working to get up to speed. DOJ and Dr. Ginger will visit the week of December 18, 2018 in order to help new leadership understand where the issues are.

6. The Mayor's Office intends to play an active role moving forward in all these activities and will attend further POB meetings because public safety is Mayor Keller's first priority.
  - c. **Thank You.** Chair Fine noted that a representative from the Mayor's Office has not attended a POB meeting in three years and thanked Sarita Nair for her presence.
  - d. **Follow-up.** Member Armijo asked for all of the names Ms. Nair had mentioned. Ms. Nair agreed to get that to him and added that the new organizational chart will be published on the website. Ms. Nair restated that Mr. Gallegos could be contacted about any questions the board has.
- c) **City Attorney (previously on agenda as item X. b.).** Julian Moya was not present, though Chair Fine noted that the board has several questions for him regarding the process of picking new board members. Director Harness replied that Mr. Moya had sent emails regarding the following topics:
1. **Members of the Board.** The selection committee has received 26 applications for the open positions and is currently reviewing the applications. The committee will make its recommendations for replacing Dr. Brown and Dr. Ring in the beginning of January. City Council is also working on the reappointment for Board Member Waites and Board Member Armijo which should go to City Council at the same time.
  2. **O-17-55.** Mr. Moya sent a second email about the progress of O-17-55, which prohibits elected officials, departments, boards, commissions, and advisory groups of the City from organizing, sponsoring, advertising, or hosting political forums. It will be on the agenda for final action at the City Council on Monday, December 18, 2017.
- d) **APD (previously on agenda as item X. a.).** Chair Fine realized that they had skipped Lt. Jennifer Garcia and looped back to her report.
1. **Dispatched Calls.** Lt. Garcia explained that for the month of November, 43,150 calls were dispatched.
  2. **Internal Cases.** 13 internal cases were completed, 12 of which were completed and investigated by Internal Affairs. The other was investigated by Area Command.
  3. **Administratively Closed Cases.** No cases were administratively closed.
  4. **Mediated Cases.** No cases were mediated.
  5. **Discipline.** For the month of November, discipline imposed includes: One verbal reprimand for missed court; five letters of reprimand, including conduct, compliance with rules and regulations, and violation of on-body recording device policy; one eight-hour suspension for failure to comply with

officer's duties; one 16-hour suspension for the safekeeping of evidence; one 32-hour suspension for complying with rules and regulations; one 60-hour suspension for the same; a 320-hour suspension related to reporting for duty; and one termination for not complying with rules, laws and regulations.

6. **Pending IA Cases.** There are 19 pending IA cases.
7. **IA and AC Cases.** Seven Internal Affairs and Area Command Administrative Cases were opened in November.
8. **Early Intervention and Recognition System.** 25 alerts were sent out. 3 were "jobs well done." The remaining alerts were related to meeting the overall thresholds. The incidences that triggered those alerts we had six ~~CIRT~~ *DF* investigations, three vehicle crashes, one IA investigation, one civilian complaint, one IA investigation by the Area Command, three additional concern memos, and seven for vehicle pursuits (all related to one pursuit).
9. **Questions for Lieutenant Garcia.**

a. Member Waites observed that in the last couple of months the POB has been receiving more information and data on various cases and he appreciates the increased transparency.

b. Member Armijo asked if the 118<sup>th</sup> class of cadets had graduated yet, and if so, how many were graduating. Lt. Garcia replied that the class graduates December 21. She did not know how many were graduating but agreed to get that information to the board.

*as is*  
c. Member Kass wished to know who had given the presentation at the ~~Foothills~~ *(OK)* Area Command CPC. Lt. Garcia figured out Sergeant Lockey gave the presentation.

d. Member Ring stated that the previous meeting he asked about the lack of accident reports and was told APD had decided to present them on a quarterly basis, but he has not seen these reports in the last three months. Lt. Garcia promised that she would present them in January.

e. Deputy Chief Garcia stated that he asked Commander Collins about the new class of cadets and was told 41 cadets will graduate.

e) **City Attorney (previously on agenda as item X. d.).** City Attorney Jeramy Schmehl gave the following report for the City Attorney's office:

1. **Clarification of Settlement Agreement.** Parties filed a joint motion to clarify an issue in the settlement agreement regarding communications between the monitor and parties. The court issued an order clarifying the interplay between CASA and IPRA and concluded that IPRA rules in that domain.
2. **Compliance Plan.** The city is to give the court a compliance plan to approve by January 31<sup>st</sup>.

- a. Structure.** The structure of the compliance plan will include 3 critical areas:
      1. Occasions of deliberate noncompliance or deliberate difference; this will include recommendations from IMR-6.
      2. Anything not covered by the first category.
      3. Anything not covered by the first and second category.
    - b. Methodology.** Applying the plan will involve seeking evidence of compliance. The compliance plan is data-oriented and utilizes Dr. Ginger's methodology which includes a focus on data sources.
    - c. Clarification.** Chair Fine asked if the action plan will identify the underlying source of information. Mr. Schmehl replied that yes, compliance would be demonstrated by the data.
  - 3. 3-52.** Regarding Member Kass's questions about 3-52, Mr. Schmehl was glad that it was delayed because it was lacking in a lot of areas. Mr. Schehl opined that the working group would be a good setting for that dialogue.
  - 4. Ride-along Form.** The ride-along form has been approved. Chair Fine asked for clarification regarding how it is used and if members need to bring it with them or if APD has it, to which Mr. Jackson replied that this needed to be discussed further. Director Harness will upload the form to SharePoint for easier access.
  - 5. Mediation Issue.** The MOU regarding mediation of civilian complaints was approved by the parties. Mr. D'Amato circulated a draft of that document, Mr. Schmehl commented on it and they are now waiting on DOJ Attorney Ryles. Director Harness will be able to do his work under the new MOU and gather information on it so that later it can later be amended as needed.
  - 6. Ordinance Changes.**
    - a.** Chair Fine asked if there was any information about the ordinance itself being changed.
    - b.** Mr. Schmehl had no information.
    - c.** Member Kass explained that the Policy Subcommittee put together a plan for contacting city council members with justifications for each proposed ordinance change in hopes of securing sponsors.
    - d.** Director Harness added that the proposed amendments have been sent to the city attorney's office for review but there are no sponsors to bring it forward yet.
    - e.** Mr. Schmehl offered to touch base with Chris Melendrez about this and Chair Fine suggested he include Member Kass as well.
  - f) CPOA.** Director Harness gave the following report for the CPOA:

1. **Thank You.** Director Harness thanked the Personnel Subcommittee and the board for their feedback.
2. **DOJ Retreats.** Director Harness explained that the following week the Department of Justice will be hosting a series of meetings involving the DOJ, the monitoring team, and city staff to get the new city staff up to speed on all that has occurred in the last three years following the settlement agreement. The DOJ would like the POB and the CPOA to present at one of these retreats, which will occur on short notice. Director Harness will keep the board informed of the schedule.
3. **Use of Force Summit.** Investigators Skotchdopole and Davidson went to the Use of Force Summit in Connecticut and reported that Daigle Law Group's presentation on use of force was informative and useful.
4. **Meeting with DA Michael Cooper.**
  - a. Director Harness met with District Attorney Michael Cooper, the DA in charge of officer-involved shooting investigations, and learned that their office was just getting to the Gabaldon shooting, which the CPOA reviewed two months ago. They have four attorneys who only work part time.
  - b. **Scope.** Director Harness explained that they only look at aspects of the shooting itself and are not allowed to look at other possible criminal violations that might be involved in a particular act.
  - c. Member Fine asked if other criminal aspects of a case are dealt with or if the officers get a free pass. Lt. Garcia and Director Harness explained that in an instance of other criminal violations the case is sent to APD's Force Investigation Team (FIT) or another investigative body. That investigative body may then take the case to the DA, but the DA will not review the whole case initially.
5. **CPOA Office Break-In.** On November 28 or 29 a person attempted to break into the CPOA office. An impact detective from Valley Command has identified a suspect, the brother of a previously terminated officer. The office will be upgraded to have badge-only entry, a service window for the public, and surveillance cameras at the door, front and behind, to ensure that the office is secure.
6. **Questions:** Chair Fine asked what is happening with the data contract. Director Harness answered that he will meet with Attorney Jackson on December 15 about it. The current hurdle is that the City's attorneys have some questions about it so Director Harness and Attorney Jackson will strategize about how to move forward with the contract.

### **XIII. Other Business.**

a) **Field Officers and Policy.** Member Armijo asked Deputy Chief Garcia if there are any field officers that are on APD's policy board because he felt that officers do not have as much say as they should in policy. Deputy Chief Garcia replied that there are a few, but his goal is to incorporate more officers. Member Armijo offered a partial solution of having a field officer attend every other POB meeting and report how policy is affecting them on the street. Chair Fine suggested that a better venue for getting that sort of information would be ride-alongs but added that if Member Armijo knows some officers who want to speak at a meeting they are welcome to do so.

**XIV. Adjournment** – A motion was made by Vice-Chair St. John to adjourn the meeting. Member Armijo seconded the motion. The motion was carried by the following vote: **For: 9 –Armijo, Brown, Cruz, Fine, Galloway, Kass, Ring, St. John, Waites**  
The meeting adjourned at 8:03 p.m.

*Next Regularly scheduled POB meeting will be on January 11, 2018 at 5:00 p.m. in the Vincent E. Griego Chambers.*

APPROVED:

  
Jpanne Fine, Chair  
Civilian Police Oversight Agency

1/11/2018<sup>mc</sup>  
Date

CC: Julian Moya, City Council Staff  
Trina Gurule, Interim City Clerk  
Isaac Benton, City Council President

Minutes drafted and submitted by:  
Maria Patterson, Temporary Administrative Assistant



# Attachments

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

**Police Oversight Board**  
*Joanne Fine, Chair*  
*Johnny J. Armijo*  
*Chantal M. Galloway*  
*Leonard Waites*  
*Dr. Susanne Brown*  
*Dr. William J. Kass*  
Edward Harness, Executive Director

*Valerie St. John, Vice Chair*  
*Eric H. Cruz*  
*Rev. Dr. David Z. Ring III*

December 14, 2017

Michael Geier, Interim Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

Re: I-48-14

Dear Chief Geier:

The shooting occurred on July 5, 2013. The Multi-jurisdictional Investigative team concluded its investigation December 16, 2013. The Bernalillo County District Attorney ruled on the use of Deadly Force August 15, 2015.

As to the officer's use of force, the policy in place at the time of the incident stated:

### ***§2-52-3 Use of Deadly Force***

***B: "Officers are authorized to use Deadly Force. By any means in order to:***

- 1. Protect the officer or others from what is reasonable believed to be an immediate threat of death or serious physical injury;***
- 2. Prevent the escape of one reasonable believed to have committed a felony, but only when:***
  - a. There is probable cause to believe the suspect poses an immediate threat of death or serious physical injury to the officer or others."***

*Albuquerque - Making History 1706-2006*

Attachment "A"

Letter to Chief Geier, I-48-14  
December 14, 2017  
Page 2

**Finding:** The CPOA finds Officer B.'s conduct **EXONERATED** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

**Finding:** The CPOA finds Officer W.'s conduct **EXONERATED** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

#### STATEMENT OF THE CASE

On July 5, 2013 officers were dispatched to 4601 San Mateo NE regarding a black male threatening two teenage boys with two large knives. Officer B located the subject at near the dispatched address. Officer B engaged with the subject, and the subject armed with two large knives, one in each hand advanced on Officer B. Multiple commands were given to the subject to drop the knives. Those commands were ignored. Officer W arrived on scene and observed the subject advancing towards Officer B. Officer W observed the subject was armed with two large knives, and advancing towards Officer B. Both officers discharged their service weapons striking the subject several times. The subject was transported to the hospital where he succumbed to his injuries.

Review of the investigative file of Internal Affairs and any opinion expressed in this letter are pursuant to the duties of the CPOA as described in the POB Ordinance and are not intended for any other purpose.

Please contact me if there are questions or concerns. I look forward to your response to the concerns and recommendations contained in this letter.

Please ensure the findings are placed in the officer's retention file.

Sincerely,



Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

Attachment "A"

# CITY OF ALBUQUERQUE



**CIVILIAN POLICE OVERSIGHT AGENCY**  
**Police Oversight Board**     *Joanne Fine, Chair*  
*Johnny J. Armijo*             *Susanne Brown*  
*Chantal M. Galloway*       *Dr. William J. Kass*  
*Leonard Waites*  
Edward Harness, Executive Director

*Valerie St. John, Vice Chair*  
*Eric H. Cruz*  
*Rev. Dr. David Z. Ring III*

December 14, 2017

Michael Geier, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

Re: I-70-14

Dear Chief Geier:

PO Box 1293

The shooting occurred on October 28, 2013. The Multi-jurisdictional Investigative team concluded its investigation December 10, 2013. The Bernalillo County District Attorney ruled on the use of Deadly Force August 16, 2016.

Albuquerque

As to the officer's use of force, the policy in place at the time of the incident stated:

**§2-52-3 Use of Deadly Force**

NM 87103

**B: "Officers are authorized to use Deadly Force. By any means in order to:**

www.cabq.gov

- 1. Protect the officer or others from what is reasonable believed to be an immediate threat of death or serious physical injury;**
- 2. Prevent the escape of one reasonable believed to have committed a felony, but only when:**
  - a. There is probable cause to believe the suspect poses an immediate threat of death or serious physical injury to the officer or others."**

*Albuquerque - Making History 1706-2006*

Attachment "B"

Letter to Chief Geier, 1-70-14  
December 14, 2017  
Page 2

**Finding:** The CPOA finds Officer P.'s conduct **EXONERATED** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

**STATEMENT OF THE CASE**

On October 28, 2013 Officer T and P were dispatched to an automobile accident, automobile struck a pole at Washington and Central SE. The driver of the vehicle was reported to be staggering away from the scene wearing a black shirt, khaki shorts and armed with a handgun. While in route dispatch advised officers the driver was observed pointing a handgun at a female and a small child standing at a bus stop.

Officer P traveling westbound on Central observed the subject engaged in a conversation with a male. Officer P stopped, exited his vehicle, pulled his weapon and demanded the subject drop the gun. The subject refused and fled on foot. Officer P was able to identify the object in the subjects hand as a gun. Officer P gave chase on foot. The subject stopped, turned toward the officer, and raised the gun in the direction of Officer P. Officer P fired his service weapon wounding the subject.

Review of the investigative file of Internal Affairs and any opinion expressed in this letter are pursuant to the duties of the CPOA as described in the POB Ordinance and are not intended for any other purpose.

Please contact me if there are questions or concerns. I look forward to your response to the concerns and recommendations contained in this letter.

Please ensure the findings are placed in the officer's retention file.

Sincerely,



Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

Attachment "B"

**CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board**

*Johnny J. Armijo*

*Chantal M. Galloway*

*Leonard Waites*

**Edward Harness, Executive Director**

*Joanne Fine, Chair*

*Susanne Brown*

*Dr. William J. Kass*

*Valerie St. John, Vice Chair*

*Eric H. Cruz*

*Rev. Dr. David Z. Ring III*

December 14, 2017

Michael Geier, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

Re: I-119-14

Dear Chief Geier:

The shooting occurred on December 1, 2013. The Multi-jurisdictional Investigative team concluded its investigation April 14, 2014. The Bernalillo County District Attorney ruled on the use of Deadly Force July 15, 2016.

As to the officer's use of force, the policy in place at the time of the incident stated:

***§2-52-3 Use of Deadly Force***

***B: "Officers are authorized to use Deadly Force. By any means in order to:***

- 1. Protect the officer or others from what is reasonable believed to be an immediate threat of death or serious physical injury;***
- 2. Prevent the escape of one reasonable believed to have committed a felony, but only when:***
  - a. There is probable cause to believe the suspect poses an immediate threat of death or serious physical injury to the officer or others."***

Attachment "C"

**Finding:** The CPOA finds Officer E.'s conduct **EXONERATED** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

**Finding:** The CPOA finds Officer M.'s conduct **EXONERATED** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

**Finding:** The CPOA finds Officer Mc.'s conduct **EXONERATED** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

#### **STATEMENT OF THE CASE**

On December 1, 2013 officers responded to a 911 call regarding a man demanding to see his children. The caller stated the subject has a violent history and was wanted on several warrants. The caller suggested, due to the subjects violent past, that 3 officers be dispatched to the call. Officers E, M, and Mc were dispatched to the call. The subject fled the scene prior to the arrival of the officers.

While searching for the subject; officers were advised to use extreme caution due to the confirmed warrants on the subject and he had threatened to commit suicide by cop.

Officers located the subject near Wyoming and Northeastern Bd. Upon officers making contact with the subject, he pulled an object from his waistband pointing it at Officers E and M. Additionally, he began to walk towards them. Officers perceived the object in the subjects hand to be a gun. The subject was commanded to drop the gun. When he refused, officers discharged their service weapons wounding the subject.

Review of the investigative file of Internal Affairs and any opinion expressed in this letter are pursuant to the duties of the CPOA as described in the POB Ordinance and are not intended for any other purpose.

Please contact me if there are questions or concerns. I look forward to your response to the concerns and recommendations contained in this letter.

Attachment "C"

**Please ensure the findings are placed in the officer's retention file.**

**Sincerely,**



**Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770**

**Attachment "C"**