



CIVILIAN POLICE OVERSIGHT BOARD

Thursday, November 9, 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
Susanne Brown
Dr. William Kass
Leonard Waites

Members Absent

Eric Cruz
Johnny J. Armijo

Others Present

Edward Harness, CPOA
Michelle Contreras, CPOA
Mark Baker, Esq.
Julian Moya, City Council
Diane McDermott, CPOA

Meeting Minutes

- I. Welcome and call to order** – Chair Fine called to order the regular meeting of the Police Oversight Board at 5:02 p.m.
- II. Pledge of Allegiance** – Member St. John led the meeting in the Pledge of Allegiance.
- III. Mission Statement** – Chair Fine read the POB's Mission Statement.
- IV. Approval of the Agenda**
- a) A motion was made by Member Ring to approve the agenda. Vice-chair St. John seconded the motion. The motion was carried by the following vote:
For: 6 – Brown, Fine, Kass, Ring, St. John, Waites
- V. Public Comments – Michael Zocholl.** Mr. Zocholl is the Chair of the SW Citizen Policing Council and is in attendance to observe and learn about the POB and what they do.
- 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 October 12, 2017**
1. Copies of the draft minutes from October 12, 2017 POB meeting were distributed to each member in their packets.
 2. A motion was made by Member Waites to approve the minutes as presented. Vice-chair St. John seconded the motion. There was no discussion. The motion was carried by the following vote:
For: 6 – Brown, Fine, Kass, Ring, St. John, Waites
- VII. Discussion:**
- a) **IMR-6.** For more information as to the Independent Monitor's Report, please download this link: <https://www.justice.gov/usao-nm/page/file/1007876/download>

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

1. The Independent Monitor Report number 6 (IMR-6) was produced to the public on November 1, 2017 and filed in the Federal Court on the same date.
2. IMR-6 will be presented to Judge Brack on November 16, 2017 at 9:00 a.m. at the Federal Court, 333 Lomas Blvd. NW, Albuquerque, NM, in the Chama Courtroom.
3. Director Harness discussed the five points as it relates to IMR-6.
 - a. **CPOA Timelines for Investigation.** In order to address the timelines for CPOA investigations, the CPOA has planned a staff meeting to discuss this issue on Tuesday, November 14, 2017.
 - b. **CPOA Secondary Compliance.** The CPOA was taken out of secondary compliance by the Monitor based upon an administratively closed case in which the investigator did not review the lapel video. However, the monitor did agree with the closing of the case but they wanted the one step included in the investigation. This took us out of the 95% rate of secondary compliance.
 - c. **APD's Struggle with Investigation and Reporting's on Use of Force.** There was no discussion as to this topic.
 - d. **Concept of De Minimis Use of force.** Discussed the concept of De Minimis force, which has been introduced to the department but no training notice has taken place. De Minimis force is a definition APD is attempting to establish the use of force that would not be reportable or so small that the department would not have to report it.
 - e. **APD's Specialized Units (e.g. SWAT, CIT)**
 - i. The Monitor is pleased with the specialized units of APD as they are making great progress and are at or near full compliance under the Settlement Agreement.
 - ii. **APD SWAT Team.** Since IMR1, the Monitor has highlighted that APD SWAT has done a great job of incorporating the policy, trained to the policy, reviewing itself and then closing the loop to those trainings. In addition, they have been utilizing the matrix during an active call-out and follow the established protocols.
 - iii. **SWAT call-out numbers.** Discussed that there are an average of 10 activations a month. Director Harness will try to get the data for call-outs and the changes that have taken place.
 - iv. **Job Well Done for APD SWAT.**
 1. Members discussed that they send a Job Well done to APD Commander McDonald and to the SWAT team for a job well done.

2. A motion was made by Member Ring to send a commendation to SWAT on its progress. Member St. John seconded the motion. There was no discussion after the motion. The motion was carried by the following vote:
For: 6 – Brown, Fine, Kass, Ring, St. John, Waites
- v. **Accidental Discharge of Firearms.** Discussed that the POB has not yet suggested that the accidental discharge of firearms be a part of a force review. Chair Fine suggested the Policy Subcommittee look at getting the suggestion submitted to the FRB.
4. **Meeting Dates for IMR-6.** Discussed the dates that the parties of the CASA will be meeting with the Monitoring team as follows:
 - a. **Pre-Brack Meeting with Monitor.** Members Kass, Chair Fine, Vice-Chair St. John will attend the pre-Brack meeting at the US Attorney’s office on November 14, 2017 at 1:00 p.m.
 - b. **Judge Brack Settlement Conference.** On November 16, 2017 at 9:00 a.m., POB Members (non-quorum) will attend the Judge Brack settlement conference hearing, which Dr. Ginger will present IMR-6 and members/parties will testify. The new Mayor-elect was invited to the hearing. No cell phones are allowed at the Federal court.
 - c. **Post-Brack Meeting.** On November 17, 2017 at 10:00 a.m., there will be a casual dress, Post-Brack meeting at the US Attorney’s office to discuss the transition moving forward with a new mayor and a new APD Chief.
- b) **Open Meeting Act Statement.**
 1. Annually, there is an OMA requirement resolution that the POB must approve. This item was tabled until Attorney Mark Baker can locate the statement. During item VIII, C, Attorney Mark Baker handed his iPad to the members for them to review the OMA statement, which is 2 pages long.
 2. After agenda item XII, this item was revisited and discussed.
 3. A motion was made by Member Ring to continue the adherence to the Open Meeting Act resolution as we have done in the past during 2018. Member Brown seconded the motion. The motion was carried by the following vote:
For: 6 - Brown, Fine, Kass, Ring, St. John, Waites
- c) **2018 Meeting dates for POB.**
 1. Director Harness discussed that the POB approve the dates. However, should conflicts arise, there be flexibility to amend dates with proper notice.
 2. A motion was made by Chair Fine to approve the POB meeting schedule for 2018 be Thursday, January 11; Thursday, February 8; Thursday, March 8; Thursday, April 12; May 10, 2018; Thursday, June 14; Thursday, July 12; Thursday, August 9; Thursday, September 13; Thursday, October 11;

Thursday, November 8; Thursday, December 13--all in 2018. Member Kass seconded the motion. The motion was carried by the following vote: **For: 6 – Brown, Fine, Kass, Ring, St. John, Waites**

3. Chair Fine reminded the POB members that they cannot have three (3) unexcused absences or they can be removed from the POB.

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

a) Administrative Closed Cases

094-17 144-17 150-17 166-17 173-17

1. A motion was made by Member Waites that the *Administratively Closed* cases be approved as presented. Member Ring seconded the motion. The motion was carried by the following vote:

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

There was no discussion as to any of the administratively closed cases.

b) Cases Investigated.

090-17 122-17 123-17

1. Member Waites made a motion, if there was no discussion, that the *Cases Investigated* be approved as presented. Chair Fine seconded the motion. The motion was carried by the following vote:

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

c) CIRT Cases.

1. There were no CIRT cases to be heard.
2. The POB has not had a CIRT cases since May 2017.
3. The agenda item name to be changed from *CIRT Cases* to *Serious Use of Force Cases* and *Officer-Involved shootings*.
4. Director Harness will compile the numbers of UOF cases for the December 14, 2017 POB meeting.
5. After the discussion, Attorney Mark Baker passed around his iPad to the POB members so they can read the OMA statement. Attorney Baker advised the members that they can read the statement and still continue on with the agenda.

IX. POB's Review of Garrity Materials.

a) OIS I-188-13

b) OIS I-48-14

1. Director Harness had received these two cases in a paper format but they were returned to Internal Affairs for them to be scanned and uploaded to SafeLink for the POB's review.
2. Chair Fine explained to the public that Garrity materials are compelled statements by law enforcement so that they do not incriminate themselves when the officer is interviewed about a complaint. The POB has to ask for permission to review those Garrity materials.
3. A motion was made by Member Waites that we have the ability to review the Garrity materials for cases I-188-13 and I-48-14. Member Brown seconded the motion.

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

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 October 17, 2017, as follows:

1. Outreach Efforts.

- a. On October 9, 2017, Dr. Kass and the CPOA Outreach Coordinator Amanda Bustos attended the Silverhills Neighborhood Association to discuss the CPOA and the POB. There was a lot of interaction that took place.
- b. The Outreach Subcommittee members are continuing the outreach efforts and each try to attend a CPC meeting once a month and invite other POB members to attend a CPC meeting as well.

2. CPOA Agency Brochure. The agency brochure with the complaint/commendation form included is still in process as the graphic designer has not completed the brochure yet.

3. Outreach Subcommittee Goals and Objectives. The Community Outreach Subcommittee goals and objectives are being refined.

4. New Community Outreach Subcommittee Member: Member Valerie St. John will be joining the Community Outreach Subcommittee.

5. Next Meeting: The next meeting of the Community Outreach Subcommittee will be held on Thursday, December 7, 2017 at 5 p.m.

- b) **Policy and Procedure Review Subcommittee – *William Kass*** - For more information about the POB Policy and Procedure Subcommittee meetings, agendas

and minutes, please refer to the website located here:

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

Member Kass gave a report on behalf of the Policy and Procedure Review Subcommittee, which met on October 26, 2017, as follows:

1. **Policy on Policy Development.** The Policy Subcommittee discussed the policy on policy development process in which it was recommended by Major Tyler that the POB Policy recommendation go directly to the Standard Operating Procedure Review Committee (SOPRC). Dr. Kass clarified for Chair Fine that the Policy Subcommittee will present policy to the POB before presenting to the SOPRC.
 2. **Tracking Policy System.** Discussed a work in progress policy tracking system. Dr. Miriam Verploegh from UNM is on contract and has done some work on how to track a policy that the POB is working on.
 3. **Ordinance Amendments.** Member Brown resurrected the amended ordinance, which is currently at City Council.
 4. **Public Input on Policies.** Dr. Kass attended a Policy Procedure Review Board (PPRB) meeting. After the meeting, Dr. Kass spoke with the meeting facilitator, who suggested that there would be some real change in terms of getting more public input as to policy creation.
 5. **CPC's Involvement in the Policy Process.** Dr. Kass discussed that he attended a CPC meeting in which he presented the Code 3 policy and was able to get the input from the individuals at the CPC meeting. While the CPC's have their own process of introducing their policy recommendations, Dr. Kass feels that when POB members attend the CPC meetings, they can facilitate what policies the CPC's are interested in.
- 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 November 7, 2017, as follows:
1. Discussed the cases investigated, cases administratively closed and the CIRT cases.
 2. Member Waites recommended that the Chairs of each Subcommittees report to the whole POB on the things they are working on and any suggestions. Dr. Ring suggested that the minutes of each subcommittee be distributed to everyone. Chair Fine is looking for dialog.
 3. The Case Review Subcommittee will meet next on December 5, 2017 at 10:00 a.m.
 4. **Appeals – None.**

d) **Personnel Subcommittee – Joanne Fine**

1. **CPOA Director Harness Evaluation.** Chair Fine discussed that Member Cruz has submitted the survey for the evaluation of Director Harness.

XI. **Reports from City Staff**

a) APD – Major Jessica Tyler gave the following report for APD:

1. **Serious Use of Force Cases (CIRT) none available since May 2017.** Major Tyler explained that the POB should start receiving cases the following week and if the POB does not start receiving cases, to reach out to her.
2. **93-17 Policy Recommendation Update CYFD Referrals.** Discussed that the Chief Eden’s letter responding the CPOA and POB disciplinary recommendations did not address the CYFD component from the findings letter sent to the citizen. Major Tyler will follow up on this.
3. **No Response from Chief on I-22-2017.**
 - a. Mayor Tyler discussed that there was a delay but it is finalized and the letter will be sent to the POB early the following week.
 - b. The timeframe of 30 days is difficult for the case to go through the Chain of Command. Chair Fine suggested that they notify the POB before the 30 days is up if they need an extension.
 - c. The issue actually be contemplated with City Legal in the Amendment in the Ordinance as a way to deal with
 - d. Julian Moya discussed that the amended ordinance has not been introduced to City Council yet for the reason that Councilor Winter wanted to get some feedback from APD and the APD union. Mr. Moya will be more than happy to work with Dr. Kass to work with other City Councilor’s that could sponsor the amended ordinance.
4. **Update on Citizen’s Policy Academy**
 - a. **Session Available by Video?** Major Tyler checked their records and there are no current videos of any of the prior sessions.
 - b. Major Tyler’s staff at the Police Academy is working with Chair Fine to schedule dates for the Citizen Police Academy to be held in February 2018 for new POB members.
5. **APD Statistical Data.** Major Tyler read the Statistical Data for the Month of October 2017. A copy of the following document titled: *Police Oversight Board, APD Internal Affairs, Statistical Data for the Month of September 2017* was distributed to the POB members. **See Attachment “A”**
6. **SWAT Calls.** There were 68 call outs for year 2017. Prior to the CASA, they were averaging of 100-120 calls per year. The reason for the decrease in SWAT call outs is the matrix and the change in the policy in which SWAT does not go out on calls where the person is threatening suicide.

7. **Accident Reports.** Major Tyler will add this topic as an agenda item for the next small group meeting with TJ Wilham and members of the POB to discuss a better mechanism for reporting accident data to the POB.

b) **City Council** – Julian Moya gave the following report for City Council:

1. **February Board Openings.**

- a. The online application process for new POB members has been reopened and will remain open on the City Council’s website in order to receive applications on a continuous basis.
- b. Mr. Moya has reached out to the applicants that they currently have and they have indicated to him that they are still interested.
- c. Mr. Moya will reach out the individuals that the POB members have referred and make sure they have the link to the application online or download and print out.
- d. New POB member Chantal Galloway appointment in OC 17-35 will be at City Council on November 20, 2017 approval. **See attachment “B.”**
- e. The web address to the application is:
<http://www.cabq.gov/council/albuquerque-police-oversight-board-application>
- f. Discussed the POB members whose membership are up and are leaving the POB.

2. **OS-55.** Discussed OS-17-55 a bill Prohibiting Elected Officials and Departments, Boards, Commissions and Advisory Groups of the City of Albuquerque From organizing, sponsoring, advertising or hosting political forums. OS-17-55 has been presented to the City Council and is sponsored by Councilor Winter. For action details, please visit this link:
<https://cabq.legistar.com/LegislationDetail.aspx?ID=3136723&GUID=B2EBF E31-E4BA-4E10-A9D8-F1E38AAF533A>

----Dinner break began at 6:12 p.m. and the meeting reconvened at 6:42 p.m. ----

c) **Mayor’s Office** – There was no one from the Mayor’s office present to give a report.

d) **City Attorney** – There was no one from the City Attorney’s office present to give a report.

1. **Ride-along Form.** Attorney Mark Baker discussed that they have been discussing the form with the City Attorney’s office. He has not heard anything but will follow up with the City Attorney’s office to get a status.

- e) **CPOA – Edward Harness, Executive Director.** Director Harness gave his report for the CPOA, as follows:
1. **Job Well Done Report and CPOA Complaints**
 - i. Job Well Done Reports received at the CPOA:
October 2017: 6
 - b. New Complaints received at the CPOA:
October 2017: 66
21 - 311 complaints
36 - Online complaints
9 - In-person complaints
 2. **Meetings with the Stakeholders.**
 - a. Prior to the IMR6 being presented to Judge Brack, there will be a meeting with the stakeholders at the United States Attorney’s office on November 14, 2017 at 1:00 p.m.
 - b. Director Harness arranged a meeting with the Department of Justice for November 17, 2017 to discuss the Mayoral transition.
 - c. Copies of the letters dated November 7, 2017 regarding the United States v. City of Albuquerque No. 1:13-CV-1025 RB and On Body Recording Device (OBRD) Video Downloads were distributed to the members but where not discussed. **See attachments “C” and “D” respectively.**
 3. **Meeting with the African-American Clergy.**
 - a. Director Harness met with some members of the African-American Clergy who wanted to better understand what the CPOA and POB roles are.
 - b. Discussed what they can do to provide support for the POB’s mission and the agency.
 - c. The Clergy will encourage the members of City Council to sponsor the amendments of the ordinance changes that are proposed.
 - d. After the 1st of the year, Director Harness will follow up with a larger group of the Leadership Council in order to reach out to the African-American congregations in the City of Albuquerque.
 4. **UNM Presentation at the Police and Policy Seminar.** Director Harness did a presentation at the UNM Policy and Policy Seminar, which was a success.
 5. **Daigle IA Training.** The training with Daigle IA training has been completed and it was a success. There was positive feedback from the training.
 6. **Monitor Site Visit.** The Independent Monitor site visit will be January 15-20th, 2017 for IMR7. Data requests are in for IMR7 and fulfilling those requests.
 7. **POB Recruitment Website.** The link for the application for POB member recruitment was distributed to all the CPC’s and all connections to the CPOA.

The link will also be distributed to the media as well as the Neighborhood Association newsletter.

XII. Meeting with Counsel re: Pending Litigation & Personnel Issues.

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

XIII. Other Business.

- a) **APD HR Promotion Policy.** Member Brown initiated a discussion about the APD HR Promotion policy. The Promotion Policy has been sent to Dr. Ginger for his review and will decide on which version will be sent to Judge Brack for his final decision on which draft will be posted for public comment.

XIV. Adjournment - A motion was made by Member Brown to adjourn the meeting. Member St. John seconded the motion. The motion was carried by the following vote:
For: 6 – Armijo, Brown, Fine, Kass, St. John, Waites

The meeting adjourned at 6:54 p.m.

*Next regularly scheduled POB meeting will be on
Thursday, December 14, 2017 at 5 p.m. in the Vincent E. Griego Chambers.*

APPROVED:



Joanne Fine, Chair
Civilian Police Oversight Agency



Date

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

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

Attachments

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

APD 911 Communications Center

Dispatched calls for Service for OCTOBER 2017: 44,094 (decrease from September (1,455))

INTERNAL CASES FOR THE MONTH OF OCTOBER 2017

1's

Total Internal Cases Completed the Month of OCTOBER: 12

Comprised of:

- 9-Internal Affairs Investigations
- 3-Area Command Investigated case

Internal Cases Administratively Closed: 0

Internal Cases Mediated: 1

Discipline imposed for Internal Cases/ OCTOBER 2017:

6: Verbal Reprimand – Conduct, Traffic Enforcement Stops, Preliminary Investigations, Supervisory Duties

5: Letter of Reprimand – Conduct, Compliance with Laws, Rules, & Regulations, Evidence/Property/Found item Accountability, Use of Force Reporting, On Body Recording Device

1: Suspension (8 hours) – Compliance with Laws, Rules & Regulations

1: Suspension (16 hours) – Use of Force Reporting

1: Suspension (32 hours) – On Duty Conduct

1: Suspension (80 hours) – Rules & Procedures

2: Suspension (240 hours) – City Rules & Regulations (work hours), Reporting for Duty, Social Media

EIRS OCTOBER 2017: 12 Alerts distributed

Pending IA Cases for the Month of OCTOBER 2017: 19

IA Cases opened in the month of OCTOBER 2017: 7

Attachment "A"

OC-17-35

**CITY OF ALBUQUERQUE
CITY COUNCIL**

INTEROFFICE MEMORANDUM

TO: City Councilors
FROM: Jon K. Zaman, Director of Council Services
SUBJECT: Staff Recommendation to Appoint Ms. Chantal M. Galloway to the
Police Oversight Board
DATE: November 3, 2017

Pursuant to the provisions of §9-4-1-5 of the Police Oversight Ordinance, City Council staff recommends the appointment of Ms. Chantal M. Galloway to the Police Oversight Board.

APPOINTEE NAME

Chantal M. Galloway
6232 La Joya Pl. NW
Albuquerque, New Mexico 87120

TERM

February 2, 2019

Ms. Chantal M. Galloway is currently a Vice-President of Business Services. Ms. Galloway holds a BBA from the University of Arkansas at Little Rock, as well as an MBA from the University of New Mexico. Ms. Galloway's interest in serving on the POB comes from her desire to be active and serve her community. Ms. Galloway has a background with for-profit and non-profit organizations and hopes to bring her skills of obtaining outcomes wherein vested parties have their concerns or opinions heard and acted upon. If appointed, Ms. Chantal M. Galloway would fill a vacancy from Dr. Carlotta Garcia's resignation, and her term would expire February 2, 2019.

1

Attachment "B"

Current Board Membership:

Name	Term
Dr. Susanne Brown	02/02/2018
Mr. Leonard Waites	02/02/2018
Mr. Johnny J. Armijo	02/02/2018
Vacant	02/02/2019
Ms. Valerie St. John	02/02/2019
Mr. Eric Cruz	02/02/2019
Ms. Joanne Fine	02/02/2020
Rev. Dr. David Ring III	02/02/2020
Dr. William J. Kass	02/02/2020

Per the Ordinance, the POB composition is to consist of nine at-large members who:
"broadly represent the diversity and demographics of the City by way of, including but not limited to, cultural, gender and geographic diversity; and who are representative of the stakeholders of the police oversight process, and who reside within the City of Albuquerque." 9-4-1-5(A) ROA 1994.

Members serve three-year terms. Per the Police Oversight Ordinance, Board members must also meet the following requirements:

- (1) He or she must not have been employed by law enforcement for one year prior to appointment; and
- (2) He or she must successfully pass a background check; and
- (3) He or she must have a personal history lacking any pattern of unsubstantiated complaints against APD; and
- (4) He or she must have a demonstrated ability to engage in mature, impartial decision making; and
- (5) He or she must have a commitment to transparency and impartial decision making; and
- (6) He or she must be a resident of the City of Albuquerque

Per Ordinance requirements for the Board's composition, listed above, Council Staff recommends Ms. Chantal M. Galloway be appointed to the Police Oversight Board.

BACKGROUND

In the summer of 2016, City Council Staff decided to open the application process for POB membership in order to refresh the City pool of potential POB members and to outreach to certain underrepresented areas of the City. The Ordinance requires that the Board broadly represent the demographics of the City by cultural, gender, and geographic diversity.

The Council Office published the Police Oversight Board Application webpage on it's website at 8:00am on June 1, 2016 and closed the the page and application process at 5:00pm on July 8, 2016. There were a total of 54 applications submitted. One applicant withdrew his application, two applicants lived outside of City limits, which disqualified them, and three applicants did not turn in their background waiver form, which disqualified them. This left 48 applications for the Selection Committee to review.

The Selection Committee consisted of:

Jon K. Zaman, Director, Council Services

Chris Melendrez, Senior Policy Analyst/Legal & Land Use, Council Services

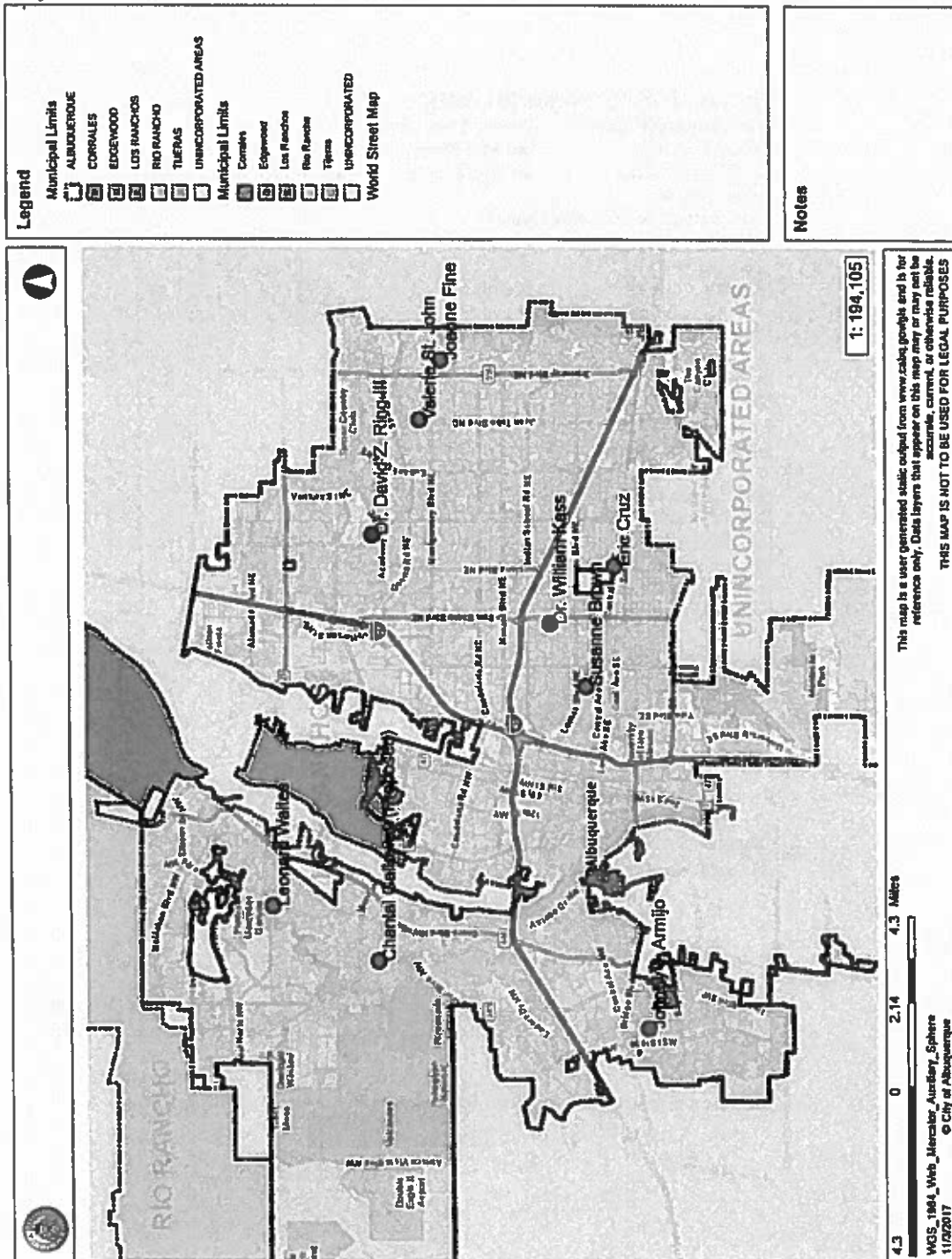
Julian Moya, Special Projects Analyst, Council Services

After filling a previous vacancy, the Selection Committee recommended keeping the list of qualified applicants for consideration should any other vacancies occur. This would allow the Selection Committee to select from a pre-qualified and diverse candidate pool in order to fulfill the Ordinance requirements.

ATTACHMENTS

- Map of POB Members

X:\CITY COUNCIL\SHARE\CL-Staff_Legislative Staff\Legislation\Other Communications (OC)\Staff Recommendation to Appoint Chantal Galloway to POB.doc



Attachment "B"

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Johnny J. Arnijo

Dr. William J. Kass

Leonard Waites

Joanne Fine, Chair

Susanne Brown

Valerie St. John

Eric H. Cruz

Rev. Dr. David Z. Ring III

Edward Harness, Executive Director

November 7, 2017

VIA EMAIL ONLY

Dr. James Ginger
6877 Francis Marion Rd.
Pamlico, SC 29583
jmg@mac.com

Luis E. Saucedo
U.S. Department of Justice
Civil Division
950 Pennsylvania Ave. NW
Washington D.C. 20530
Luis.E.Saucedo@usdoj.gov

Jessica Hernandez
Albuquerque City Attorney
1 Civic Plaza NW
Albuquerque, NM 87102
jmhernandez@cabq.gov

Fred Mowrer
115 Eighth St. SW
Albuquerque, NM 87102
fmowrer@smdlegal.com

Re: United States v. City of Albuquerque No. 1:14-CV-1025 RB

Dear Dr. Ginger, Me. Saucedo, Ms. Hernandez, and Mr. Mowrer:

I write this letter on behalf of the Police Oversight Board and the Civilian Police Oversight Agency. The purpose of this letter is to briefly outline topics we intend to present to Judge Brack on November 16, 2017.

We intend to present to Judge Brack our concerns regarding the following issues:

Attachment "C"

1. APD's failure to present for the Board's review, in accordance with the CASA and City of Albuquerque Ordinance, Serious Use-of Force Cases, and Officer Involved Shootings.
2. The Board's concerns regarding APD's Force Review Board. The FRB continues to operate outside APD Policy. Additionally, the departments fails to address the out of policy actions of FRB. Nor, has it proposed or written any policies to improve FRB's performance.
3. APD's unilateral decision to prohibit CPOA's ability to download On Body Recording Device video in violation of APD Policy 2-8-5-G-4, which states, "*Viewing and downloading OBRD recordings is for criminal investigations, administrative investigations, or authorized administrative purposes only.*"
4. APD's failure to deliver on it's commitments in this Court's Ordered Action Plan. Specific to the POB are the commitments to provide POB members with a Citizens Police Academy to accommodate a volunteer schedule.

We look forward to discussing this letter with the Monitor and the parties at our 1:00 meeting on November 14th.

Please contact me if there are questions or concerns.

Sincerely,

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

Attachment "C"

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Johnny J. Armijo

Dr. William J. Kass

Leonard Waites

Edward Harness, Executive Director

Joanne Fine, Chair

Susanne Brown

Valerie St. John

Eric H. Cruz

Rev. Dr. David Z. Ring III

November 7, 2017

VIA EMAIL ONLY

Dr. James Ginger
6877 Francis Marion Rd.
Pamlico, SC 29583
pmrinc@mac.com

Luis E. Saucedo
U.S. Department of Justice
Civil Division
950 Pennsylvania Ave. NW
Washington D.C. 20530
Luis.E.Saucedo@usdoj.gov

Jessica Hernandez
Albuquerque City Attorney
1 Civic Plaza NW
Albuquerque, NM 87102
jmherandez@cabq.gov

Fred Mowrer
115 Eighth St. SW
Albuquerque, NM 87102
fmowrer@smdlegal.com

Re: On Body Recording Device (OBRD) Video Downloads

Dear Dr. Ginger, Mr. Saucedo, Ms. Hernandez, and Mr. Mowrer:

On September 21, 2017 the Police Oversight Board sent a letter to Chief Eden regarding the Department's change in policy relating to the Civilian Police Oversight Agency's ability to download video evidence from evidence.com. The letter highlighted the CPOA's legitimate need to have the ability to download video, and the Department's obligation to do so.

On October 4, 2017 Chief Eden responded to the POB denying the Board's request citing a conversation he had with the Bernalillo County District Attorney's Office and other experts

Attachment "D"

with concerns about the integrity of released video in high profile police shootings. A rather ironic statement given this report from KRQE last night. <http://krqe.com/2017/11/06/police-video-apd-takes-down-aggravated-assault-suspect/> The Chief could not cite one occasion where a downloaded video, in possession of the CPOA, was ever released or compromised the operations of APD.

On October 17, 2017 myself, and Chair Fine attended the weekly meeting between APD, the Monitor, and DOJ. The change in video protocol was on the agenda for discussion. This letter is a result of that discussion.

On October 24, 2017 I attended the weekly meeting between APD, the Monitor, and DOJ because the topic of video downloads was again on the agenda. During that meeting the parties were informed that under no circumstances would anyone be given a download of OBRD video. The new protocol for all interested parties to access video would be a link provided to evidence.com. The department further stated no one would be provided a copy of video even to meet a State of New Mexico Inspection of Public Records request. The department advised those in attendance no one has been provided downloaded copies of video in at least the last 60 days, in accordance with the new protocol. We now know that statement to be false. See:

1. October 25, 2017 - KOB reporting on a Thanksgiving Arrest
2. October 26, 2017 – KOB reporting on the Circle K Shooting Suspect
3. October 26, 2017 – KOAT reporting on the Circle K Shooting Suspect

The media was provided a DVD download of those OBRD videos, in addition to the link I provided above.

This change in protocol has wide reaching implications beyond hindering the CPOA's ability to conduct fair and thorough investigations. It will affect the entire justice system. Moreover department has not provided a written Memo, Directive, Notice, or change in policy vetted through the department's policy development process.

The City Attorney requested we restrict our argument to the tenants of the CASA. However, it is our position this change not only breaches the CASA, but also the City of Albuquerque Oversight Ordinance, and APD's On Body Recording Devise Policy.

It is the agency's position that the change in policy is in violation of three paragraphs of the CASA: Paragraph 185, Paragraph 282, and Paragraph 283.

Paragraph 185 states: *APD shall require personnel to cooperate with Internal Affairs Bureau and Civilian Police Oversight Agency investigations, including appearing for an interview when requested by an APD or Civilian Police Oversight Agency investigator and providing*

Attachment "D"

all requested documents and evidence under the person's custody and control. Supervisors shall be notified when a person under their supervision is summoned as part of a misconduct complaint or internal investigation and shall facilitate the person's appearance, absent extraordinary circumstances.

The key to this paragraph of the CASA is the requirement to cooperate fully. This paragraph sets the standard and level of cooperation required of APD personnel when part of a CPOA investigation.

Paragraph 282 states: *The City shall ensure that the agency, including its investigative staff and the Executive Director, have access to all APD documents, reports, and other materials that are reasonably necessary for the agency to perform thorough, independent investigations of civilian complaints and reviews of serious uses of force and officer-involved shootings. At a minimum, the City shall provide the agency, its investigative staff, and the Executive Director access to:*

- a) *all civilian complaints, including those submitted anonymously or by a third party;*
- b) *the identities of officers involved in incidents under review;*
- c) *the complete disciplinary history of the officers involved in incidents under review;*
- d) *if requested, documents, reports, and other materials for incidents related to those under review, such as incidents involving the same officer(s);*
- e) *all APD policies and training; and*
- f) *if requested, documents, reports, and other materials for incidents that may evince an overall trend in APD's use of force, internal accountability, policies, or training.*

The key to this paragraph is the phrase; "independent investigations". It is impossible to complete an independent investigation if the CPOA must rely on APD to preserve evidence identified by the CPOA. Currently, the CPOA must request a viewing of a video related to a particular incident. Sometimes those requests are denied because the video does not have an incident number tagged to the video. The CPOA investigates incidents that may not have a number associated with it, therefore the video may be available for only a limited amount of time. It must also rely on APD to preserve this evidence to prevent the possible deletion of the video if it runs past the 120 day preservation requirement. That system has led to video being deleted before the completion of an investigation.

Attachment "D"

Prior to the change, CPOA would download a copy of the video and maintain it in the investigative file. This also facilitates the Monitor's request to review a full investigative file.

The CPOA is under Monitor review and has compliance obligations with the Monitor. Without a downloaded copy of the OBRD video used in an investigation, that file would be incomplete and take the agency out of compliance.

Paragraph 283 states: *The City shall provide reasonable access to APD premises, files, documents, reports, and other materials for inspection by those appointed to the agency, its investigative staff, and the Executive Director upon reasonable notice. The City shall grant the agency the authority to subpoena such documents and witnesses as may be necessary to carry out the agency functions identified in this Agreement.*

The City argues it is reasonable to provide access to video through evidence.com, but unreasonable to allow downloading of video. If we look beyond the CASA to the Oversight ordinance and APD's policy on OBRD we can determine what is reasonable.

The Ordinance 9-4-1-4 (C)(3)(b) states: *APD shall provide POB members, the Director, and CPOA staff with reasonable access to APD premises, files, documents, reports, and other materials that are reasonably necessary for the agency to perform thorough, independent investigations, of civilian complaints and reviews of serious uses of force and office-involved shootings. However, any material protected from disclosure by law shall remain within the custody and control of APD at all times and will be handled in accordance with the applicable legal restrictions.*

The only restriction cited in the ordinance is material protected from disclosure by law. These videos and the downloading of them are not protected by law. In fact, New Mexico's Inspection of Public Records Act requires an electronic copy be provided, if requested. Certainly, it is reasonable to expect an electronic copy of a video to complete a thorough investigation, without invoking the request under IPRA!

Lastly, the prohibition of downloading OBRD video violates APD policy. 2-8-5(G) (4) published 6-02-2017 states: *Viewing and downloading OBRD recording is for criminal investigations, administrative investigations, or authorized administrative purposes only.*

In fact, a training video for APD personnel dated 7-31-2017 highlighted the changes in the policy including the above referenced paragraph.

It is not only reasonable for the CPOA to have the ability to download OBRD video it is supported by all the guidance from the CASA, the Oversight Ordinance, and APD policy.

Currently, not a single entity task with criminal or administrative investigations has any guidance as to how to proceed under these unilaterally imposed changes. As stated previously

Attachment "D"

these changes have far reaching implications beyond CPOA. It affects the entire justice system in Albuquerque.

We humbly request your support in our request to rescind this policy change and return to compliance with the CASA, the Oversight Ordinance, and current APD policy.

Thank you for your attention to this matter.

Sincerely,

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

Attachment "D"