

CIVILIAN POLICE OVERSIGHT BOARD

Thursday, September 8, 2016 – 5:00 PM
Vincent E. Griego Chambers, Basement Level
City/County Government Center – One Civic Plaza NW
Albuquerque, New Mexico

Members Present:

Beth Mohr, Chair
Leonard Waites, Vice Chair
Susanne Brown
Eric Cruz
Joanne Fine
Dr. Carlotta Garcia
Dr. Lisa M. Orick-Martinez
Johnny J. Armijo (Observing)

Members Absent

Rev. Dr. David Z. Ring III

Others Present:

Edward Harness, Exec. Director
Matthew Jackson, Esq.
Lt. Jennifer Garcia
Julian Moya
Amanda Bustos
Michelle Contreras

Minutes

- I. **Welcome and call to order:** Chair Mohr called the meeting to order at 5:01 p.m.
- II. **Pledge of Allegiance** –Chair Beth Mohr led the Board in the Pledge of Allegiance.
- III. **Approval of the Agenda:** Copies of the agenda were distributed. An amendment to the agenda is as follows:
 - A. Move item 11 to the beginning of dinner.
 - B. Add CPC 088-16 to item VII. Consent Agenda Cases, letter d.
 - C. Member Fine made a motion to approve the agenda as amended. Member Cruz seconded the motion. **Approved.**
For: Brown, Cruz, Fine, Garcia, Mohr, Orick-Martinez, Waites
- IV. **Public Comments**
 - A. **Geraldine Amato** – Summary of comments to the Board: Ms. Amato commented that the American Flag that is worshipped at the beginning of the meeting is a fraud. She says that there were several blows to the Republic that seized the Republic and its powers. The death blow was the Civil War. Ms. Amato says that the State of New Mexico had a border dispute and now there is only five hundred or so square miles left. She brings up the fact that there are 13 Judicial Districts and 33 counties all of which the Scottish Rite Freemasons are on the frontlines and in control of the State and the Nation. Ms. Amato says that she is convinced that the recent killings of two police officers and another APD officer and a Sheriff Deputy were killed as a result of masonic rituals. Ms. Amato says that she was wearing a Sheriff Posse patch to represent the fact that the lawful office of Sheriff no longer exists because the Republic no longer exists and that the Bar Association have subdued it.

- B. Tadeusz Niemyjski** - Summary of comments to the Board: Mr. Niemyjski says that without liberty you cannot have freedom and vise-versa. He says that the Politicians are corrupted. Mr. Niemyjski says that we need a democratic process instead of a dictatorship led by City Council. He says that there are two classes of people now, poor and very wealthy. He is concerned about the small businesses like the mom and pop grocery stores who are being squeezed out by the big corporations. He says that he knows what he is supposed to do and wants to see how much investigation is discovered.
- C. Tony Pirard** - Summary of comments to the Board: Mr Pirard shaved his head in protest over the DOJ and APD's non-compliance with the Consent Decree. He says that there will not be any serious changes to APD as thing are going back to normal. The CPC's don't work because there are not enough board members. In addition, he says that the people in the neighborhood are given a false sense of leadership. There is discrimination within the CPC's because people, who have been on the CPC and are Hispanic, are being removed from the CPC. Mr. Pirard says that the picnic that Judge Brack had on July 28th was a slap in the face to the murder victims and their families. He says that the police murders need to be addressed by the DOJ and the media. He says that the childish things need to stop. The word "stakeholder" needs to go because it has not been defined. The Oversight Board needs more power than what they have. He says another problem is the lapel cameras, which should have gone into play automatically after the Judge signed the Consent Decree.

V. Review and Approval of Minutes

- A.** Member Fine made a motion to approve the minutes from the August 11, 2016 POB Meeting with one correction in item IX. B, i. a. "The APD annual report contains a mix of APD and national data." Member Cruz seconded the motion. **Approved.**

For: Brown, Cruz, Fine, Garcia, Mohr, Orick-Martinez, Waites

B. Introduction of New Board Member Mr. Johnny J. Armijo

- i.** Mr. Johnny Armijo was introduced to the public and the Board. Mr. Armijo is observing this meeting as per the Ordinance.
- ii.** Mr. Armijo gave a presentation of his background and qualifications, they are:
 - a.** He was born and raised in the South Valley of Albuquerque.
 - b.** Went to Armijo Elementary, Ernie Pile Middle School and graduated from Rio Grande High School.
 - c.** He went to the University of New Mexico for a while but graduated in 1988 from the University of Utah.
 - d.** Worked with Youth Development Incorporated (YDI) in 1974.
 - e.** Has been in Social Services field for 42 years.
 - f.** Worked as a clinician in mental health.
 - g.** Worked for Youth Corrections for the State of Utah for nine (9) years, in which they closed down crack houses.
 - h.** Was the chairman for the DWI Planning Council for Albuquerque/Bernalillo County for three (3) years.

- i. Has a pretty diverse background, is getting ready to retire in a year and half and is ready to get involved with the POB.

VI. Discussion:

A. Updated re: Letter to Chief regarding drug testing

- i. Members discussed the letter to Director Harness dated April 22, 2016 from Chief Gorden Eden, Jr. regarding the POB’s letter dated March 11, 2016 in reference to policy recommendations to APD’s Drug testing policy. (See letter dated April 22, 2016 as attachment A).
 - a. The Chief agreed to recommendations 1, 2, 3 and 6.
 - b. The Chief did not agree to recommendation #5 about the tint on APD Vehicles.
 - c. The Chief forwarded recommendation #4 to the City of Albuquerque Human Resource Department and the City Attorney for their legal analysis.
 - d. Chair Mohr contacted the City Attorney and Ms. Scott, the director of HR. The City Attorney wrote back in response, they said: *“The City of Albuquerque and APD has just completed the long process in developing a drug testing policy that was compliant with the CASA and was approved. Chief Eden has provided the office with several documents about expanding the drug testing policy and we will continue the dialogue concerning this matter with mutual concern.”*

VII. Consent Agenda Cases: The cases on the consent agenda have been individually reviewed by the Board members and the POB agrees with the CPOA’s findings. The findings become part of the officer’s file, if applicable. Copies of the full findings letters to citizens can be found at: <http://www.cabq.gov/cpoa/findings-letters/civilian-complaints-pob-findings>.

A. Administratively Closed Cases

**030-15 031-15 050-15 007-16 130-16 147-16
149-16**

Vice Chair Waites made a motion to approve the *Administratively Closed Cases* as written. Member Brown seconded the motion. **Approved.**

For: Brown, Cruz, Fine, Mohr, Waites

B. Cases investigated

**037-16 045-16 052-16 053-16 066-16 076-16
079-16 115-16 117-16 121-16 125-16**

Vice Chair Waites made a motion to approve *Cases investigated* as written. Member Fine seconded the motion. **Approved.**

For: Brown, Cruz, Fine, Mohr, Waites

C. CIRT cases: C-009-15, C-009-16, C-011-16. Prior to the motions, Director Harness discussed each of the CIRT cases.

- i. **CIRT Case C-009-15:** This case involved the use of an electronic controlled weapon with a large man in a small confined area. The officers used the electronic controlled weapon to take the man into protective custody.
 - a. Director Harness concurs with the findings in this case and did not find any issues with the use of force in this case nor did he find any needed recommendations. Director Harness sent a memorandum dated September 8, 2016 to Chief Gorden Eden, Jr. with his findings. A copy of the memo was distributed. **(See memo dated September 8, 2016 as attachment B).**
 - b. Member Fine clarified for Member Brown the first and second calls the person made. On the first call, it was unclear what was happening but the caller called back because the issue was worse and for the police to come quicker, so they did.
 - c. Member Fine made a motion to approve CIRT C-009-15 memo as written. Vice Chair Waites seconded the motion. **Approved.**
For: Brown, Cruz, Fine, Mohr, Waites

- ii. **CIRT Case C-009-16:** This case involved the officer possibly using a “neck hold” technique during a domestic violence call out.
 - a. Director Harness concurs with the findings in this case. Director Harness sent a memorandum dated September 8, 2016 to Chief Gorden Eden, Jr. with his findings. A copy of the memo was distributed. **(See memo dated September 8, 2016 as attachment C).**
 - b. **Recommendations:** Director Harness recommends that Officer L. take a refresher course in investigative techniques and communication skills.
 - c. Member Fine made a motion to approve CIRT C-009-16 memo as written. Member Brown seconded the motion. **Approved.**
For: Brown, Cruz, Fine, Mohr, Waites

- iii. **CIRT Case C-011-16:** This case involved two officers that routinely go to a location where there are stolen vehicles and wait for individuals to get into a stolen vehicle and drive and then they can arrest them. In this case, there was a foot chase there was a subsequent arrest, which resulted in a broken collar bone of the subject. The officer used knee strikes to the torso, which was used as a distraction technique, in order to gain the compliance of the subject and in order to get the hands of the subject behind his back to be handcuffed.
 - a. A discussion was had regarding the two issues in this case:
 - 1. The first issue was that this was a fishing expedition initiated by the two police officers.
 - 2. Secondly, in this instance, the use of knee strikes to the torso was unreasonable.
 - b. Director Harness does not concur with the findings in this case and recommends that this case be sent to Internal Affairs for an investigation into the use of force. Director Harness sent a memorandum dated September 8, 2016 to Chief Gorden Eden, Jr. with his findings. A copy of the memo was distributed. **(See memo dated September 8, 2016 as attachment D).**

- d. Director Harness clarified for Member Cruz there are investigative techniques when looking for a certain individual. However, in this investigation, the officers were treating it like an African Safari.
- e. Member Fine made a motion that we accept these findings as written by the Agency and presented by the Executive Director. Member Brown seconded the motion. **Approved.**

For: Brown, Cruz, Fine, Mohr, Waites

- D. CPC 088-16:** The citizen complained that he suspected that that his vehicle plate number was run in NCIC without a lawful purpose. The citizen came upon two APD officers having lunch in a restaurant and overheard their conversation. He felt that their conversation disparaging of APD. When he was leaving the restaurant, one of the officers followed him out of the restaurant and took down his license plate number and ran his plate in NCIC without a lawful purpose.
- i. This case originally came to the CPOA office for an investigation but was transferred to Internal Affairs for a possible criminal activity. The investigation was completed by IA and the file came back to the CPOA for our review. This case is in the review period.
 - ii. Based upon the CPOA's preliminary investigation, the case was sent it to IA for an investigation based on the fact that the plate number was run in NCIC without a lawful purpose.
 - iii. In this instance, there is a duty for the incident to be reported to the NM Department of Public Safety and/or the FBI to determine if there is criminal activity. Internal Affairs cannot conduct a criminal investigation and an administration investigation in this case.
 - iv. Director Harness does not concur with the findings in this case as it was not properly investigated in accordance with the Settlement Agreement paragraph 188 and recommends that this case be referred to the New Mexico Department of Public Safety NCIC Division for investigation. In addition, the Chief must meet with the FBI so that proper assessment can be made to determine if a criminal investigation is warranted. Director Harness sent a memorandum dated September 8, 2016 to Chief Gorden Eden, Jr. with his findings. A copy of the memo was distributed. **(See memo dated September 8, 2016 as attachment E).**
 - v. Member Fine discussed that the Case Review Subcommittee discussed that this case should go forward to the DPS and we should also take a look at the pattern and how it is addressed by APD and possibly creating a policy to address it.
 - vi. Director Harness mentioned that he put in the memo the Chief's Special Order dated March 19, 2015 that outlines a couple of examples and the U.S.C. Title 18 (US Codes, 641, 1030, 1343, & 1952).
 - vii. Since this case is still pending investigation and no findings have been determined, the POB did not make a motion or vote on this matter but deferred the issue back to Director Harness.

VIII. Reports from Subcommittees:

A. Outreach Subcommittee/NACOLE Local Conference Committee – Leonard Waites, Chair: For more information regarding POB Outreach Subcommittee meetings and minutes, please refer to our website located here: <http://www.cabq.gov/cpoa/subcommittees/outreach-committee>.

- i. Vice Chair Waites did not have a report.
- ii. POB “Save the dates” document was distributed and discussed. (See **attachment F**).
- iii. Member Fine would like to encourage the public to attend the free NACOLE Community Forum on Sunday, September 25, 2016 from 1:00 p.m. to 2:30 p.m. This event is kicking off the conference and this will be the place that public is encouraged to attend and talk about Albuquerque in particular during “Talking Circles.”

B. Policy and Procedure Subcommittee – Dr. Susanne Brown, Chair. For more information regarding POB Policy and Procedure Subcommittee meetings and minutes, please refer to our website located here: <http://www.cabq.gov/cpoa/subcommittees/policy-procedure-review-committee>

Member Brown gave the following report for the Policy and Procedure Subcommittee:

- i. **APD Data Warehouse.** Our request for data from APD is coming along. APD Data warehouse is where they are trying to get all the data put into one place and more accessible and easier for everyone.
- ii. **Preventable accidents data.** We have received some data we requested regarding preventable accidents but not enough to let us know if the officer was on or off duty and severity of accidents they are involved in. This is ongoing project.
- iii. **Rape Kits.** Members discussed the article in the Santa Fe New Mexican regarding the State Auditor Tim Keller reporting that there is more than one problem with the backlog in the testing of rape kits. Tim Keller pointed there is a problem regarding policy. Dr. Miriam Verploegh to get the actual report from the State Auditor’s office to look at it. We would like to look and see the implications those policies might have for our policies and how well they connect.
- iv. **Policy change recommendation to 3-29 Policy Development Process.** Members discussed the Policy Development Process 3-29 and several recommendations to that policy. A copy of the SOP 3-29 was distributed. (See **attachment G**).
 - a. Member Brown proposed several changes to SOP 3-29. A copy of the document titled “3-29 Policy Development Process” was distributed and discussed. (See **attachment H**).
 - b. Discussed inserting the POB after the PPRB and before OPA in the flow chart in SOP 3-29-3-A. This change would ensure appropriateness and consistency with other APD policies. (See **attachment H**).
 - c. Director Harness discussed the motivation for the POB to be inserted into the SOP 3-29 flow chart and written into the policy.

- d. Member Brown discussed that the changes would move the POB into a position so that the ordinance reflects the new process and gets the POB cemented into place after the Settlement Agreement ends.
- e. This issue will be sent back to the Policy and Procedure Subcommittee.
- v. The next meeting of the Policy and Procedure Subcommittee is tentatively set for September 19, 2016 from 9 a.m. to 11 a.m.
- vi. Director Harness to forward the email to the POB that he received from OPA about the On Body Camera policy that is going to be heard at the September 13, 2016 OPA meeting.

--Chair Mohr moved the Case Review Subcommittee report, item VIII, C., to after the dinner break (Agenda item number was not changed) --

C. Case Review Subcommittee – Leonard Waites: For more information regarding POB Case Review Subcommittee meetings and minutes, please refer to our website located here: <http://www.cabq.gov/cpoa/subcommittees/case-review-committee-crc>. Case Review Subcommittee Chair Leonard Waites gave the following report:

- i. **Discussion of tiered prioritization matrix for investigation of citizen complaints – Joanne Fine.** A copy of Member Fine’s document titled, “Draft for Discussion by POB 9/8/2016, Structuring Priorities for Case Review” was distributed and discussed. **(See attachment J)**
- ii. **Discussion of APD SOP 1-9 and APD’s Chain of Command, Case Review Instructions (Chief’s Recommendation Form):** Copies of the following documents were distributed and discussed:
 - 1. Albuquerque Police Department, Chain of Command, Case Review Instructions (Chief’s recommendation form) **(See attachment K)**
 - 2. APD SOP 1-9 Discipline System / Sanctions **(See attachment L)**
 - a. Any level 7 sanction with an officer that does not have a history of violations is going to be administratively closed and deemed to be minor.
 - b. Director Harness recommended that making tiers levels within the sanction chart such as:

Class	CPOA Levels/Tiers
Class/Sanction 1	Level 1
Class/Sanctions 2, 3	Level 2
Class/Sanctions 4, 5, 6	Level 3
Class/Sanction 7 (without any other fraction)	Level 4

- c. Member Cruz made a motion to table this discussion and for Director Harness to draft a letter to Dr. Ginger to see if time can be a weighted factor. Vice Chair Waites seconded the motion. **Approved.**
For: Brown, Cruz, Fine, Garcia, Mohr, Orick-Martinez, Waites

--The Personnel Subcommittee Report was conducted prior to the dinner break and before the Case Review Subcommittee Report, item VIII, C.—

D. Personnel Subcommittee – Beth Mohr. For more information regarding POB Personnel Subcommittee meetings and minutes, please refer to our website located here: <http://www.cabq.gov/cpoa/subcommittees/personnel-committee>.

Subcommittee Chair Beth Mohr gave the following report:

- i. Chair Mohr requested that the future POB Agenda’s reflect a standing agenda line item for the purposes of the POB to conduct a closed session for personnel matters and for litigation matters, to read as follows:
“XI. Meeting with Counsel re: Pending Litigation & Personnel Issues: Closed Discussion and Possible Action 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); and*
 - B. *Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)”*
- ii. A copy of the “CPOA Director Evaluation Form” was distributed and discussed. (See **attachment I**).
- iii. Member Fine recommended that the Board Members circle the number on the evaluation form and put a response as to why they picked that number.

----Dinner break at 6:30 p.m. Meeting reconvened at 6:57 p.m. ----

IX. Subcommittee Meeting Space – Dr. Carlotta Garcia

- A. Members discussed the accessibility of meeting space for the public to attend the POB Subcommittee meetings at Plaza del Sol.
- B. Julian Moya from City Council says that the City Council Committee room can be an option for the POB Subcommittee meetings and will work with Ms. Contreras regarding reserving that room, if available, for future meetings.

X. Reports from City Staff:

- A. **APD Lt. Jennifer Garcia, Internal Affairs:** Lt. Garcia gave a report on Statistical Data for the Month of August, 2016. Copies of the following documents were distributed (See “**Attachment M**”):
 - *APD Internal Affairs, Statistical Data for the Month of August 2016.*
 - *Graph: Internal Investigations, Year to Date (January through August), Year to date total received cases 2011 through 2016;*
 - *Graph: Internal Investigations January through August.*
- i. As requested by the POB in a previous meeting, Lt. Garcia provided the following SOP sections that related to the discipline imposed for Internal Cases for August 2016:
 - a. For verbal reprimands: There were two (2) for conduct violations and two (2) violations for enforcement of laws.

- b. For letters of reprimands: There was one (1) for scheduled and unscheduled leave, one (1) for use of computers, one (1) for code responses to calls and one (1) for rules and procedures relating to DWI investigations.
- ii. **Policy and Procedures re: Officers involved in motor vehicle accidents to include timelines.**
 - a. Lt. Garcia went over the highlights in the policy for officers involved in accidents:
 - i. If an officer is involved in an accident while in a police vehicle, an APD Supervisor responds and initiates the accident investigation.
 - ii. If the APD Supervisor determines whether or not there are serious and personal injury or death or substantial damage to the City vehicle or city property before the scene is cleared.
 - iii. The APD Supervisor completes the required City of Albuquerque Automobile Crash report.
 - b. **Post-accident Drug and Alcohol testing.** If it is determined that one or more of the following exists:
 - i. A fatality;
 - ii. The officer's performance could have contributed to the crash and injuries that cause emergency medical treatment away from the scene or one or more of the vehicles involved in the crash had to be towed from the scene because it was disabled.
 - iii. Reasonable suspicion that the individual is under the influence.
 - iv. If any of the above exists, the following may occur:
 - c. The officer will be sent to be tested (someone from the department will drive them to the test site) within 2 hours. If for some reason they cannot be tested within 2 hours (if they were hospitalized for treatment) that will be documented and they will be tested for drugs and alcohol within 8 hours.
 - d. Drug testing can be accomplished within 32 hours of the incident.
 - e. If they leave the scene for whatever reason, they have to notify their supervisor or the responding supervisor where they are so that someone can be sent to their location to be tested or someone can pick them up to take them to the testing site. Testing can be done outside the normal hours of 7:30 a.m. to 4 p.m. as the testing facility can send a mobile technician to come to conduct the test.
 - f. Unless there is reasonable suspicion, APD does allow the officer to continue working. In the old policy, the department did not allow an officer to continue working until the drug test results came back.
 - g. If the department believes the employee was under the influence of alcohol, for example, they will conduct a DWI investigation.
 - h. Lt. Garcia clarified for the POB that if the officer is off duty and involved in an accident, the City does not test. However, if the officer is on-call, they are considered on duty.

- i. **IA Pro/Blue Team.** The department is training APD Supervisors on how to use IA Pro/Blue Team software to track vehicle accident data beginning this month.
- j. **Vehicle Stats.** Lt. Garcia gave the following APD vehicle stats as reported by the Crash Review Board (CRB) for 13 months from June 2015 through June 2016:

APD Preventable and Non-Preventable Stats June 2015 through June 2016	
Preventable	122
Non-Preventable	107
Total	229
Average	18
Sworn	837
Non-Sworn	1400

B. City Council: Julian Moya gave the following report:

- i. Mr. Moya welcomed the newest POB member Mr. Johnny J. Armijo and thank him for his commitment to serving on the POB.
- ii. On September 7, 2016, City Council introduced OC 1618, the CPOA’s Semi-Annual report. The report has been referred to the Finance and Government Operations Committee and will be heard at that Committee meeting on October 10, 2016. From there, it will move onto to City Council for the final receipt.

C. Mayor’s Office. No one present to give report.

D. City Attorney: No one present to give report.

E. Community Policing Councils: No one present to give report.

F. CPOA Reports:

- i. **CPOA Executive Director Edward Harness:** Director Harness gave the following report for the CPOA:
 - a. For the month of August, 2016, there were eleven (11) Job Well Done’s and twenty-seven (27) new complaints and no mediations completed.
 - b. CPOA Semi-Annual Report was received by the City Council and will go in front of the Finance and Government Subcommittee.
 - c. There will be a NACOLE phone conference this Friday at 1 p.m. for anybody on the Local Conference Committee that would like to participate or make any comments for last minute details for the upcoming NACOLE conference.
 - d. Director Harness commended Amanda Bustos for doing a great job in coordinating the NACOLE Conference, including the Scholarship dinner, which is sold out. NACOLE is going to open it up for an addition 25 tickets to the Scholarship dinner.
 - e. The press release has gone out for the Community Meeting to the public for the talking circles. That was very well received by NACOLE and other persons involved.
 - f. Lt. Garcia informed Director Harness that we should expect a few CIRT cases to come through but have not seen any yet.

- g. The CPOA has received the Chase Officer Involved Shooting case. This case is going to be reviewed at the same time as the command staff, which means that they will have the same review period as the POB. Director Harness will get the case into context for their review before the expiration of the 30 days.
- h. The CPOA has received the Hawkes shooting, which the CPOA has spent a great amount of time on for the last 10 days. We will be moving forward for that.
- i. The Garrity materials are ready and available for the POB to review at the Internal Affairs division. However, as per his discussion with the Case Review Subcommittee, Director Harness feels that it is important to give the POB a briefing before they go listen to the Garrity material so they can have context for what they will be hearing. Director Harness will have that ready for them by the end of next week.
- j. The Chase case is on the 30 day review. The Hawkes case is not on a timeline as the case is still at the District Attorney's Office. The Chase case will have priority over the Hawkes case.
- k. Director Harness will give the POB the final dates and time ranges for the POB to come into the CPOA office and view the materials at the viewing station.
- l. The POB was not able to vote on the viewing of Garrity material in the Chase case because it was not noticed on this agenda. As a rule, "Garrity" will be added to future Agenda's as a standing item.

XI. Meeting with Counsel re: Closed session to discuss matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the CPOA is or may become a participant-Board Attorney Mark Baker.

- A. The Board did not meet in closed session during this meeting, as there were no matters to discuss with Attorney Mark Baker at this time.
- B. See item VIII, D, i, for the addendum language for future POB Agenda's.

XII. Other Business:

- A. The next scheduled meeting of the Policy and Procedure will be determined at a later date.
- B. The next scheduled meeting of the Case Review Subcommittee will be on October 4, 2016 at 2:00 p.m.
- C. The next scheduled meeting of the Personnel Subcommittee is tentatively set for October 27, 2016 at 4 p.m. (Depending on the Executive Session at the next POB meeting on October 13, 2016.)
- D. There is no upcoming meeting of the Outreach Subcommittee.

XIII. Adjournment: Member Brown made a motion to adjourn the meeting. Member Cruz seconded the motion. **Approved.**

For: Brown, Cruz, Fine, Garcia, Mohr, Orick-Martinez, Waites

Meeting adjourned at 7:55 p.m.

*Next regularly scheduled POB meeting will be on
Thursday, October 13, 2016 at 5 p.m. in the Vincent E. Griego Chambers.*

APPROVED:

Beth Mohr, Chair
Civilian Police Oversight Agency

Date

CC: Julian Moya, City Council Staff
Natalie Howard, City Clerk
Dan Lewis, City Council President

DRAFT

ATTACHMENTS

CITY OF ALBUQUERQUE

Albuquerque Police Department



Gorden E. Eden, Jr., Chief of Police



April 22, 2016

Edward Harness
Executive Director
Civilian Police Oversight Agency
600 2nd St. NW, Room 813
Albuquerque, NM 87102

Dear Mr. Harness:

In your letter dated March 11, 2016, in the matter of Albuquerque Police Department (APD) Internal Affairs (IA) investigation IA-48-15, you made the following policy recommendations:

1. Immediately only allow buy bust operations after the scenarios have been fully briefed, in person, by all supervisors and participants.
2. End the practice of "radio briefings"
3. Immediately prohibit not briefed parties from participation in any operation, unless officers' request back-up.
4. Institute a drug policy: Immediately test all officers that discharge their firearms in the line of duty.
5. APD should only use legal level of window tint on vehicles. Windows that have dark tint creates a safety issue for officers.
6. APD should ensure that officers involved in undercover operations are wearing reliable wires in order for the Detectives who are involved to hear what is going on.

400 Roma NW

Albuquerque

New Mexico 87102

www.cabq.gov

I have discussed these recommendations with APD senior staff and will present your recommendations to PPRB and the newly created Office of Policy Analysis. I concur with recommendations 1, 2, 3 and 6. Radio transmissions will be used as part of an on-going investigative process to insure that all detectives assigned to the case are provide immediate updates prior to the "take down". Recommendation #4 will be sent to the City of Albuquerque Human Resources Department and the City Attorney for their legal analysis. APD has concerns with recommendation #5 as tinted windows are necessary for criminal surveillance and undercover operations. This recommendation will still be presented to the PPRB and the Office of Policy Analysis. Recommendation #6 has been implemented and new equipment purchased.

Thank you for your recommendations and we look forward to your continued involvement of the PPRB.

Sincerely,

GORDEN E. EDEN, JR.
Chief of Police

Albuquerque - Making History 1706-2006

Attachment "A"



City of Albuquerque
Civilian Police Oversight Agency

Richard J. Berry, Mayor

Edward W. Harness, Esq., Executive Director

Interoffice Memorandum

September 8, 2016

To: Gordon Eden, Jr. – Chief of Police Albuquerque Police Department
From: Edward W. Harness, Esq., Executive Director
Subject: C-009-15

Chief Eden:

After reviewing the investigative materials in C-009-15 *I concur* with the findings.

Edward W. Harness, Esq.
Executive Director
CPOA

“Attachment B”



City of Albuquerque
Civilian Police Oversight Agency

Richard J. Berry, Mayor

Edward W. Harness, Esq., Executive Director

Interoffice Memorandum

September 8, 2016

To: Gorden Eden, Jr. – Chief of Police Albuquerque Police Department
From: Edward W. Harness, Esq., Executive Director
Subject: C-009-16

Chief Eden:

After reviewing the investigative materials in C-009-16 *I concur* with the findings, the force used in this case does not constitute a “neck hold”.

However, there is the opportunity for training in this case. A more complete preliminary investigation and better communication skills could have prevented the need for the use of force.

This was a domestic dispute not a burglary. The subject had the right to crawl through the window into the apartment. The officers involved should have questioned the subject before immediately placing their hands on him. Not every citizen contact must result in a frisk of a subject. Taking the time to explain what the officers were investigating and questioning the subject related to the call would have prevented the need for force in this case.

I recommend Officer L. take a refresher course in investigative techniques and communication skills.

Edward W. Harness, Esq.
Executive Director
CPOA

“Attachment C”



City of Albuquerque
Civilian Police Oversight Agency

Richard J. Berry, Mayor

Edward W. Harness, Esq., Executive Director

Interoffice Memorandum

September 8, 2016

To: Gorden Eden, Jr. – Chief of Police Albuquerque Police Department
From: Edward W. Harness, Esq., Executive Director
Subject: C-011-16

Chief Eden:

After reviewing the investigative materials in C-011-16 *I do not concur* with the findings, an Internal Affairs investigation into the use of force is necessary in this case.

The use of knee strikes, to the torso, as a “distraction technique” is outside the bounds of APD training, and policy. Furthermore, the use of knee strikes to handcuff a subject while three other officers are on top of and engaged with the subject is an unreasonable use-of-force.

I also find troubling the characterization by Officer D. stating he knows a trailer park where there are a lot of stolen cars so he and his partner Officer F wait like an African Safari for someone to get in and drive one of the stolen vehicles. If in fact this is true, those officers have a duty to return those vehicles to the rightful owners, not wait for a driver so they hunt. It is not a coincidence that Officers D and F are frequently cited in Use of Force cases. Perhaps their Safari technique is a contributing factor.

Edward W. Harness, Esq.
Executive Director
CPOA

“Attachment D”



City of Albuquerque
Civilian Police Oversight Agency

Richard J. Berry, Mayor

Edward W. Harness, Esq., Executive Director

Interoffice Memorandum

September 8, 2016

To: Gorden Eden, Jr. – Chief of Police Albuquerque Police Department
From: Edward W. Harness, Esq., Executive Director
Subject: CPC 088-16

Chief Eden:

After reviewing the investigative materials in CPC 088-16 *I do not concur* with the findings of Sgt. Simballa.

This investigation is in violation of the City of Albuquerque Settlement Agreement. Paragraph 188 states:

"If at any time during misconduct complaint intake or investigation the investigator determines that there may have been criminal conduct by any APD personnel, the investigator shall immediately notify the Internal Affairs Bureau commanding officer. If the complaint is being investigated by the Civilian Police Oversight Agency, the investigator shall transfer the administrative investigation to the Internal Affairs Bureau. The Internal Affairs Bureau commanding officer shall immediately notify the Chief. The Chief shall consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation. Where an allegation is investigated criminally, the Internal Affairs Bureau shall continue with the administrative investigation of the allegation. Consistent with Paragraph 186, the Internal Affairs Bureau may delay or decline to conduct an interview of the subject personnel or other witnesses until completion of the criminal investigation unless, after consultation with the prosecuting agency and the Chief, the Internal Affairs Bureau deems such interviews appropriate."

APD has a duty to report any suspected violation of the NCIC & NMLETS to the New Mexico Department of Public Safety. In addition, this case must be submitted to the Federal Bureau of Investigations to determine if Sgt. A's conduct is in violation of U.S.C. Title 18 (US Codes 641, 1030, 1343, & 1952) as detailed in your Special Order 15-21 dated March 19, 2015.

“Attachment E”

Presently this administrative investigation is premature and incomplete. It is not acceptable for Sgt. Simballa to make calls; pose hypothetical scenarios and claim that is a criminal investigation. APD Internal Affairs cannot conduct any portion of the criminal investigation. The administrative investigation and criminal investigation must separate in order comply with paragraph 188 of the CASA.

I recommend this case be referred to the New Mexico Department of Public Safety NCIC Division for investigation. Also, the Chief must meet with the FBI, so that a proper assessment can be made to determine if a criminal investigation is warranted.

Edward W. Harness, Esq.
Executive Director
CPOA

“Attachment E”

IMPORTANT: POB “Save The Dates”

- **Saturday, September 17, 2016**
 - POB Mission Statement Study Session
 - 9:30 a.m. to 12:00 noon
 - Location: Starbucks Conference Room
 - Address: 2400 12th St NW, Albuquerque, NM 87102
(12th St. across from Indian Pueblo Cultural Center)
 - Details:
 - Open to POB Members and CPOA Staff.
 - There will be no public comment.
 - Meeting materials will be forthcoming by Chair Beth Mohr.

 - **Sunday, September 25, 2016**
 - NACOLE Community Forum
 - 12:00 noon to 2:30 p.m. (Public Meeting starts at 1:00 p.m.)
 - Location: Convention Center Cochiti/Taos Rooms
 - Details:
 - NACOLE, POB, CPOA will be hosting a Community Forum to hear from Albuquerque citizens about issues in policing, transparency, and police accountability. This meeting will be in the form of “Talking Circles” as we kick off the 2016 Annual NACOLE Conference theme, “Confronting Systemic Injustice”.
 - Please forward the Press Release to invite your stakeholder contacts. PSA was sent to the POB general email on Tuesday, 9/6/16.

 - **September 25-28, 2016**
 - NACOLE Conference, please see conference schedule online for session information.
- **** We will Need Volunteers Prior to NACOLE: Date, Time, and Location- TBD
- Prepare conference bags and organize conference materials.
 - Email will be sent out NEXT WEEK to coordinate available volunteers! ☺

Upcoming Subcommittee Meetings:

- **Policy & Procedure Meeting:**
 - Monday, September 19th @ 9:00-11:00am
- **Case Review Committee (CRC) Meeting:**
 - Tuesday, October 4th @ 2:00pm
- **Personnel Meeting:**
 - (Tentative) Thursday, October 27th @ 4:00pm
- **Community Outreach:**
 - Determine NEW meeting availability for Subcommittee members schedule

Created 09/08/2016

“Attachment F”



ALBUQUERQUE POLICE DEPARTMENT
ADMINISTRATIVE ORDERS

SOP 3-29

Effective: 05/10/16 Expires: 11/06/16 Replaces: 05/10/12

3-29 POLICY DEVELOPMENT PROCESS

3-29-1 Policy

Policies and procedures are necessary for the Department to operate predictably, objectively, and transparently, as well as to ensure accountability for meeting the Department's mission to provide effective and constitutional policing. Policies and procedures should be clear, up-to-date, and accessible to Department personnel as they fulfill their duties. The Department is developing and expanding a system designed to encourage personnel to contribute their input in the development of policies and procedures for the Department.

3-29-2 Definitions

A. Citizen Police Oversight Agency (CPOA)

An independent agency of City Government, not part of either the City Administration or City Council that consists of a Police Oversight Board (the "POB") and an Administrative Office led by the CPOA Executive Director. The Administrative Office serves as the administrative and investigative unit of the Police Oversight Board (POB).

B. Police Oversight Board (POB)

A volunteer citizen board members of which are selected by the City Council and which is tasked with hearing civilian complaints, reviewing administrative investigations of officers, and analyzing Department policies and making recommendations for improvements to those policies.

C. Policy and Procedures Review Board (PPRB)

An administrative body which conducts the final review of policies and procedures forwarded by the SOPRC.

D. Policies

Policies summarize the department's position on specific matters. Policies are concise position statements based on underlying organizational principles, goals, values, and operational philosophies. They are designed for broad general direction and guidance primarily designed for use by all members of the department or by more than one operational division.

E. PowerDMS

Intra-agency Document Management System possessing a comment function that allows all Department employees, CPOA, and POB to comment on proposed new policies and those being reviewed.

"Attachment G"



ALBUQUERQUE POLICE DEPARTMENT
ADMINISTRATIVE ORDERS

SOP 3-29

Effective: 05/10/16 Expires: 11/06/16 Replaces: 05/10/12

F. Standard Operating Procedure Liaison

A department civilian employee assigned to the Policy and Planning Division tasked with the upkeep and logistical responsibilities related to department SOPs.

G. Standard Operating Procedure Review Committee (SOPRC)

Committee tasked with assisting PPBR with reviewing, correcting, and updating new and current Department Standard Operating Procedures.

Published on 05/10/16



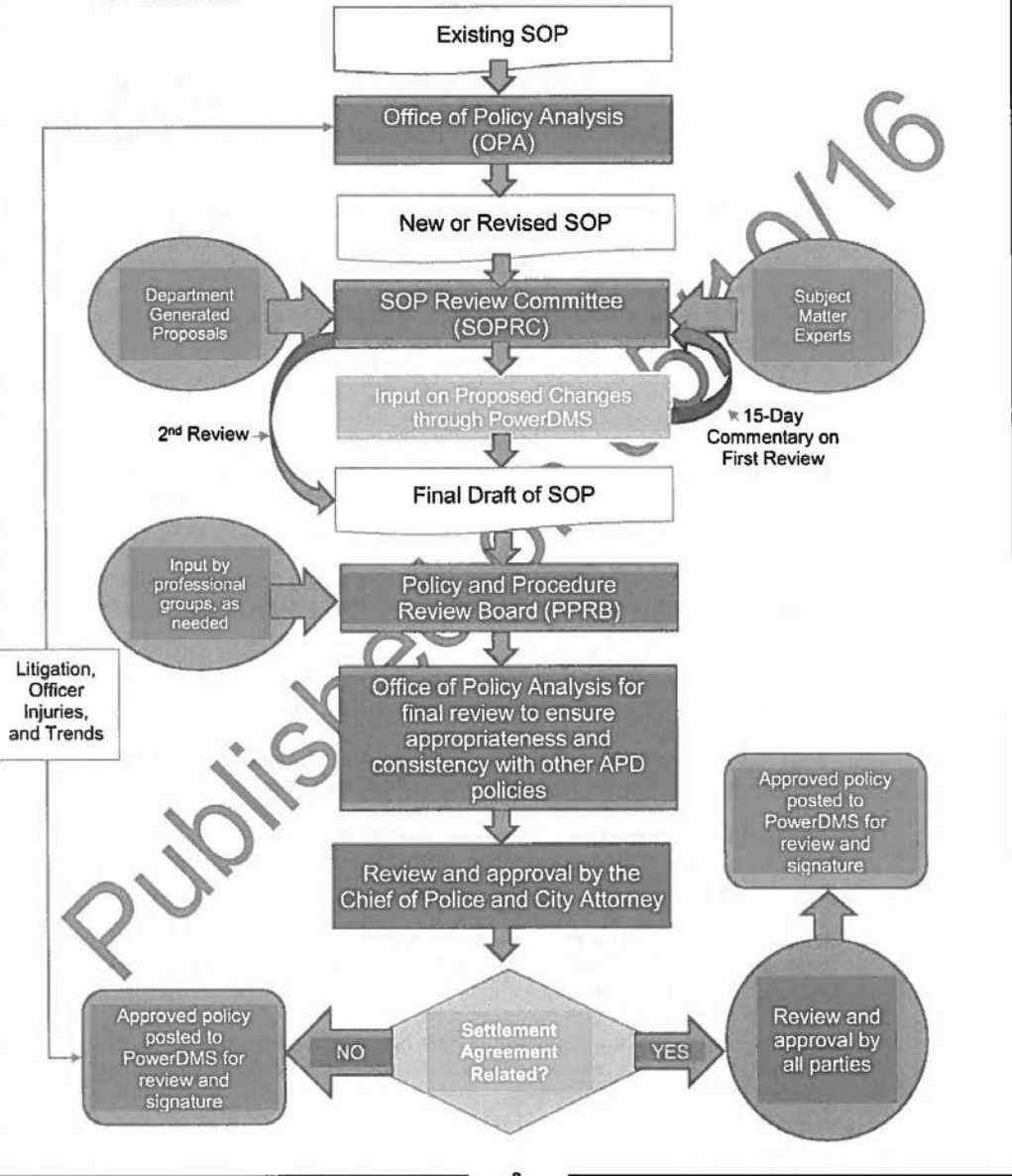
ALBUQUERQUE POLICE DEPARTMENT
ADMINISTRATIVE ORDERS

SOP 3-29

Effective: 05/10/16 Expires: 11/06/16 Replaces: 05/10/12

3-65-3 Policy Development Process

A. Flowchart



“Attachment G”



ALBUQUERQUE POLICE DEPARTMENT
ADMINISTRATIVE ORDERS

SOP 3-29

Effective: 05/10/16 Expires: 11/06/16 Replaces: 05/10/12

B. Policy Development Overview

1. Anyone, including but not limited to any employee of the department, members of the CPOA, APOA, POB, OPA, and the general public, may submit their ideas and proposals for a new policy or revision of current department policy.
2. Any member of this department who requests, or is made aware of a request for a new policy or revision of current policy shall inform the department SOP Liaison and provide him or her with the proposed revision and/or contact information for the party requesting the revision.
3. Before initiating the policy development process, the SOP Liaison shall, using his or her best judgment, training and experience, review and ensure that the submitted request for a new policy or proposed revision to current policy is feasible, reasonable, within the best interests of the public, and within the best interests of the department. If any questions arise as to possibility of introducing the proposal, the SOP Liaison shall consult with department personnel, as appropriate.
4. If the SOP Liaison determines that a proposed policy revision or new policy submittal is not feasible, unreasonable, not in the best interest of the public and/or the department, he or she shall draft a letter to the submitting party and to the Chief of Police through his or her chain of command and provide the reason(s) why the proposal was not considered.
5. All new policy proposals and requests to revise existing SOPs shall enter the policy development process at the Standard Operating Procedures Review Committee (SOPRC).
6. The sponsor of the policy proposal may be present at the SOPRC at the request of any SOPRC member to answer questions and provide input.
7. Any policy relating to mental health response will be forwarded to the Mental Health Response Advisory Committee (MHRAC) for review and comment. This involvement from MHRAC will occur prior to posting a potential policy on PowerDMS for commentary. The chairs of MHRAC will be invited to PPRB when the relevant SOP is considered. MHRAC involvement will also be encouraged during public meetings of the OPA.
8. Once a policy proposal is reviewed by the SOPRC to ensure that it meets best practices, department practices, and legal standards/case law, it is placed on the DMS for 15-Day Commentary.
9. At the end of the 15-Day Commentary, the comments generated during this process will be reviewed by the SOPRC. The SOPRC will make appropriate changes based on the comments.

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“Attachment G”



ALBUQUERQUE POLICE DEPARTMENT
ADMINISTRATIVE ORDERS

SOP 3-29

Effective: 05/10/16 Expires: 11/06/16 Replaces: 05/10/12

10. The SOPRC, upon completion of its review and appropriate changes, shall forward the policy proposal to the PPRB.
11. The PPRB shall review the policy proposal and changes made by the SOPRC, if applicable. The sponsor of the policy proposal and members of the SOPRC will be present to explain the proposal and the changes made.
12. The PPRB may make additional changes as they see fit to the policy proposal.
13. The PPRB has the final authority to pass, table, or deny a policy proposal.
14. If the policy proposal is tabled, the Chair shall appoint a member to make necessary corrections or complete the necessary research to ensure that the policy may be heard at the next regular scheduled meeting.
15. If the policy proposal is denied, the PPRB shall provide explanation and further instruction, if applicable, to the SOPRC.
16. If the policy proposal is passed, the SOP Liaison shall publish the revised policy on the DMS without unreasonable delay once the Chief of Police gives final approval.
17. The OPA will be involved in continuously reviewing department policies at six month intervals after implementation and annually thereafter. Part of that review process will be to engage with community groups for their input on policy changes over time to reflect the experience of the department and the community with existing policies.

C. Office of Policy Analysis (OPA)

1. OPA is designed to gather information on national standards and best practices and to integrate their findings into existing APD policy while providing a "big picture" view and deep analysis of APD policy.
2. OPA will also review collected information on lawsuits, officer injuries, and trend data that may indicate the need for policy change.
3. OPA is composed of the following individuals:
 - a. The SOP Liaison provides guidance and context regarding APD SOPs.
 - b. A representative from the City Attorney's Office is a resource providing information concerning legal standards and lessons learned from litigation.
 - c. A representative from the Civilian Police Oversight Administration provides insight into trends regarding citizen complaints.
 - d. A representative from the Albuquerque Police Officer Association provides insight into the usability aspect of SOPs.

"Attachment G"



ALBUQUERQUE POLICE DEPARTMENT
ADMINISTRATIVE ORDERS

SOP 3-29

Effective: 05/10/16 Expires: 11/06/16 Replaces: 05/10/12

- e. A representative from the Albuquerque Police Department Academy provides insight into the training process of new and experienced police officers.
 - f. Volunteer officers and department personnel provide fresh analysis and helpful review of current policy.
4. Although not subject to the Open Meetings Act, the OPA will hold some of its meetings in a public location so as to provide access to all who wish to participate. The general public is welcome to attend and provide input at these meetings.
 5. Recommendations generated by OPA for improvements of department policy will be submitted to the SOPRC for review and approval.
 6. Part of the OPA's work will be to initiate reviews of department policies six months after implementation and annually thereafter to ensure that the policy provides effective direction to department personnel and remains consistent with the department's mission, best practices, and current law. Recommendations from the OPA for policy changes based upon these periodic reviews will be reviewed by the SOPRC and the PPRB according to the normal policy development process set forth in this policy.
- C. Standard Operating Procedures Review Committee (SOPRC)
1. The SOPRC vets newly-submitted policies as to best practices and reviews existing policies to ensure continuing compliance with case law and union contracts. New policies or suggestions for improving existing policies may be presented by intra-departmental sources, members of the CPOA, and OPA.
 2. This committee will have a chair and seven members. The SOP Liaison will serve as the chair of the SOPRC. The members will consist of four Lieutenants, one Quality Assurance Auditor, one representative from the CPOA, and one representative from the APOA. These members will apply for their position on the committee, and will be selected by the Chair of the PPRB. Members will serve for a term of one year.
 3. The SOPRC meets at a regular time on a weekly or bi-weekly basis. The Chair will be responsible for the scheduling of meetings.
 4. The SOPRC will review and revise policies that have been:
 - a. Submitted for the first time and require an initial review.
 - b. Returned from 15-day commentary.
 - c. Rejected by the PPRB.
 5. The SOPRC may request the presence of the sponsor of the SOP revision or the new SOP at the SOPRC meetings to answer questions and provide input.

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“Attachment G”



ALBUQUERQUE POLICE DEPARTMENT
ADMINISTRATIVE ORDERS

SOP 3-29

Effective: 05/10/16 Expires: 11/06/16 Replaces: 05/10/12

6. Proposed changes will be marked clearly on the existing policy so that the future reviewers will be able to easily see proposed changes.
7. Upon the initial approval by the SOPRC, the policy will be posted on PowerDMS for a maximum of 15 days for APD employees, CPOA and POB to review and comment.
8. At the conclusion of the 15 days, the comments will be reviewed by SOPRC for additional changes and then the policy will go to PPRB for a broader group discussion.

D. Policy and Procedure Review Board

1. The PPRB is established under the direct authority of the Chief of Police and has the power to:
 - a. Initiate, review, and evaluate department policies and procedures.
 - b. Involve personnel, who may also attend meetings, by encouraging them to supply facts pertinent to the proposed policy.
 - c. Advise and assist the Chief of Police on policy development.
 - d. Receive and recommend approval/disapproval policies and procedures via PowerDMS.
2. The Chief of Police appoints PPRB members.
3. Appointed representatives will serve on the PPRB for one year, unless removed by the Chief of Police. However, the Executive Director, Deputy Chiefs, Majors, a City legal representative, the CPOA Director, and the union representative shall be standing members.
4. The Executive Director is the chairman (presiding officer) of the PPRB.
5. This PPRB is permanent within the Department and will conduct regular meetings, as necessary. The scheduling of necessary meetings will be the responsibility of the SOP Liaison.
6. The PPRB is composed of:
 - a. Executive Director, Administrative Support Bureau
 - b. Deputy Chief, Investigative Bureau
 - c. Deputy Chief, Special Services Bureau
 - d. Major, Field Services Bureau West Division
 - e. Major, Field Services Bureau East Division
 - f. Major, Training Division
 - g. One Representative, Investigative Bureau
 - h. One Representative, Special Services Bureau
 - i. Two Representatives, Field Services Bureau

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“Attachment G”



ALBUQUERQUE POLICE DEPARTMENT
ADMINISTRATIVE ORDERS

SOP 3-29

Effective: 05/10/16 Expires: 11/06/16 Replaces: 05/10/12

- j. Legal Advisor
 - k. Technical Services Division Manager
 - l. Two Representatives, Emergency Communications
 - m. One Representative, APOA
 - n. CPOA Investigator (non-voting)
 - o. CPOA Director
 - p. POB representative
7. The PPRB will evaluate proposals for the following elements:
- a. Clarity of language;
 - b. Conflict with other existing policies and procedures;
 - c. Compatibility with federal, state, and local laws;
 - d. Compatibility with union contracts;
 - e. Compatibility with City administrative orders or directives; and
 - f. Other applicable issues.
8. If a member should transfer during this period, the member's replacement shall serve a period of one year from the date of appointment.
- a. If a member is transferred, the member shall notify the Chairman.
 - b. The member shall be replaced within the area that the member is being transferred from.
 - c. The transferred member may continue to serve at the discretion of the Chairman or until any unfinished business is completed.
9. Any changes made to a policy by the PPRB will be final, subject to final approval by the Chief of Police. If the proposed changes are rejected, reasoning must be provided by the PPRB to the SOPRC for future planning.
9. All policies, once approved by the Chief of Police, will be marked with an effective date and the date for re-evaluation.
10. The SOP Liaison will publish the approved policy on PowerDMS.

“Attachment G”

3-29 POLICY DEVELOPMENT PROCESS

The POB recommends the following changes to 3-29 Policy Development Process:

1. 3-29-3-A Flowchart will insert the Police Oversight Board after Policy and Procedure Review Board (PPRB) and before the Office of Policy Analysis for final review to ensure appropriateness and consistency with other APD policies
2. 3-29-3-B-16 shall read: If the policy proposal(s) are passed, the policy will be submitted to the Police Oversight Board for its review. Upon completion of the POB's review of the policy proposal, if passed, the SOP Liaison shall publish the revised policy on the DMS, once the Chief of Police gives final approval. If policy does not pass, the Chief will accept and review the POB's recommendations. The chief shall then have 45 days to submit his written response to the POB, in accordance with Albuquerque City Ordinance Sec. 9-4-1-4(C)(5)(b).

“Attachment H”

CPOA Director Evaluation Form

Name of Rater:

1. Contributions towards to the purpose of the CPOA office

Rating: 1 2 3 4 5

Response:

2. Community Outreach

Rating: 1 2 3 4 5

Response:

3. Policy Recommendations

Rating: 1 2 3 4 5

Response:

4. Quality investigations of citizen complaints and Officer Involved Shootings

Rating: 1 2 3 4 5

Response:

5. Management of Staff

Rating: 1 2 3 4 5

Response:

6. Transparency

Rating: 1 2 3 4 5

Response:

7. Independence

Rating: 1 2 3 4 5

“Attachment I”

Response:

8. Data Analysis

Rating: 1 2 3 4 5

Response:

9. Quality investigations

Rating: 1 2 3 4 5

Response:

10. Training for POB and staff

Rating: 1 2 3 4 5

Response:

11. Reporting to include quarterly reports and reporting to City Council

Rating: 1 2 3 4 5

Response:

12. Collaboration and relationships

Rating: 1 2 3 4 5

Response:

13. Communications

Rating: 1 2 3 4 5

Response:

14. Maintaining confidentiality

Rating: 1 2 3 4 5

Response:

“Attachment I”

Why we need priorities for Case Review:

This would enable staff to prioritize complaints in order to best utilize CPOA resources. We accept all complaints but they are addressed in a pre-approved order as time and resources permit. Our purpose is to give priority to dealing with complaints which are most likely to effect changes which bring our community closer to constitutional policing as defined by the CASA settlement agreement, the scope of the City Ordinance which formed the CPOA/POB, and common sense.

DRAFT FOR DISCUSSION

BY POB, 9/8/2016

Structuring Priorities for Case Review

Rank	Complaint Type [highest to lowest]	
1	Officer involved shootings	
2	Serious use of force	
3	Any other use of force	
4	Misbehavior by an officer which negatively effects the complainant	
5	General complaints about APD or its employees or practices	
6	All other complaints	

“Attachment J”

Albuquerque Police Department
Chain of Command
Case Review Instructions

Each applicable level of the chain of command will note their recommendations on the Chain of Command Recommendations Form. For all sustained findings and non-concurrences with the investigator findings, the initial reviewing chain of command (a commander or division head) will write a Chain of Command Recommendations Memo. The memo will contain the information listed below and will be forwarded to the next appropriate level. All reviewers shall sign and date the Chain of Command Recommendation Form. Each level of the Chain of Command may concur with the previous level and indicate in the space provided on the form. Non-concurrences must also be documented in a Chain of Command Recommendation Memo and attached.

Only the Chief of Police or Assistant Chief of Police will complete the Chief of Police Proposed Findings Form.

The Commander/Division Head will complete the Training and Policy Recommendations Form even when there are no recommendations. The chain of command reviewing the case will note concurrence or non-concurrence in instances where recommendations are made. Any level of the chain of command review may make training and policy recommendations if applicable.

All review and recommendations will be in compliance with SOP 3-24.

Chain of Command Recommendations Memo Instructions:

1. Address each Standard Operating Procedure separately to include at minimum:

- State whether or not you concur with CPOA/POB or IA Investigator findings
- If there is non-concurrence, list the addition or deletion to the findings supported by fact
- State the sanction you are assigning to each specific SOP violation. Only SOP sections with sanctions listed next to them can be cited as violations

2. State in a separate paragraph the recommended disciplinary action to include mitigating/aggravation factors

- Include how this action was formulated
- Example: Two sanction 7 violations according to the Chart of Sanctions is a Written Reprimand
- Any deviation from the Chart of Sanctions must be thoroughly explained

3. Training Recommendations should be noted here and on the attached Training and Policy Recommendation Form.

“Attachment K”

Albuquerque Police Department Definition of Findings

1. Unfounded

Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. Sustained

Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

3. Not Sustained

Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

4. Exonerated

Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

5. Sustained Violation Not Based on Original Complaint

Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.

6. Administratively Closed

Investigation classification where the investigator determines:

- the policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, with no pattern or history of misconduct);
- the allegations are duplicative;
- the allegations, even if true, do not constitute misconduct; or
- the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.
 - Such complaints may be reopened if additional information becomes available.

“Attachment K”

Albuquerque Police Department
Chief of Police Proposed Findings

Case Number: Investigator:

Date of Incident: Employee Involved:

Standard Operating Procedure Violations:

Investigation completed on: IA Commander Review:

Disposition:

	Sustained	Not Sustained	Exonerated	Unfounded	Sustained NBOC	Admin Close
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Firearm Discharge: Reasonable Unreasonable

Action to be Taken:

No Action to be Taken Suspension Other:
 Verbal Reprimand Total Hours: _____
 Letter of Reprimand To be served: _____
 Termination To be held: _____

Concur with CPOA/POB: Findings Action to be Taken Nonconcurrency

IA use only:
 Date to CPOA: Date Returned from CPOA: Date to AC: Date Returned from Chief Office:

“Attachment K”

Albuquerque Police Department
Chain of Command Recommendation Form

Chief of Police/Assistant Chief: _____
(Print Name)

Signature: _____ Date: _____

Deputy Chief/Major/Exec Director: _____
(Print Name)

Signature: _____ Date: _____

Commander/Division Head: _____
(Print Name)

Reminder: Attach Chain of Command Recommendation Memo if applicable

Signature: _____ Date: _____

“Attachment K”

Albuquerque Police Department
Training and Policy Recommendation Form

Case #: _____

This form is used to recommend training or policy changes based on the review of an administrative investigation. **The Commander/Division Head will complete this form even if no recommendations for change are made.**

TRAINING RECOMMENDATION

_____ No training issue was identified in this review.

_____ A training issue has been identified:

_____ Individual training for an employee or group of employees is recommended. A completed "Mandatory Training Recommendation Form" (PD-2432) is attached. A copy of the form has been sent through the chain of command.

Note: All training recommendations resulting from an investigation will be enforced unless negated by the Chief of Police.

_____ Training for a group of employees is recommended as follows:

POLICY CHANGE RECOMMENDATION

_____ No policy change issue was identified in this review.

_____ A policy issue has been identified and noted in the

Chain of Command Recommendation Memorandum:

_____ A change to the Department SOP is suggested. A copy of the proposed revision to the policy is attached. A copy of the proposed revision to the policy will be sent to the SOP Liaison per SOP 3-29.

Chain of Command signature indicates approval. Non-concurrence with the training or policy recommendations should be documented on the Chain of Command Recommendation Form or Memo

Commander/Division Head Signature: _____ Date: _____

Deputy Chief/Major/Executive Director Signature: _____ Date: _____
Non-concurrence (Initial): _____

Chief/Assistant Chief Signature: _____ Date: _____
Non-concurrence (Initial): _____

“Attachment K”



ALBUQUERQUE POLICE DEPARTMENT
GENERAL ORDERS

SOP 1-9

Effective: 06/27/16 Expires: 12/20/16 Replaces: 05/13/16

1-9 DISCIPLINE SYSTEM

1-9-1 Purpose

The purpose of this policy is to describe how discipline will be evaluated and imposed in response to violations of department policy.

1-9-2 Policy

Department policy is to ensure that disciplinary action is taken in a prompt, resolute, fair, and consistent manner. To provide a framework for this approach, the Department established a Chart of Sanctions. Using the chart as a benchmark will enable the Department to retain discretionary authority for imposing individualized disciplinary action while ensuring a systematic and equitable administration of discipline for all employees.

“Attachment L”



ALBUQUERQUE POLICE DEPARTMENT
GENERAL ORDERS

SOP 1-9

Effective: 06/27/16 Expires: 12/20/16 Replaces: 05/13/16

1-9-3 Definitions

A. Aggravating Circumstances

Aggravating circumstances are factors related to the officer, his or her conduct, or the effect of the conduct on others, that serve to increase the seriousness of the conduct and the severity of the discipline imposed pursuant to the Chart of Sanctions. Aggravating circumstances cannot be defined for every possible incident; therefore, it is necessary that the reviewing supervisor fully articulate the significant factors that increase the seriousness in the investigations they review.

For example, consider two employees driving city vehicles who become distracted by their mobile data terminals. One employee strikes a curb while the other runs over a pedestrian within a cross walk. Both violations are technically the same; however, the circumstance of running over a pedestrian would be aggravating, justifying more severe discipline in addition to that noted in the Chart of Sanctions.

An employee's past disciplinary history, liability exposure, intent, injuries caused, Department exposure to liability or damage to its reputation comprise some of the conditions which may be considered when determining aggravating circumstances.

B. Chart of Sanctions

The Chart of Sanctions is the appendix to this policy, which identifies levels of disciplinary action to be imposed based on sanction classification and frequency of occurrence of the misconduct.

C. Mitigating Circumstances

Mitigating circumstances are accompanying events, facts or conduct that do not justify, exonerate, or excuse the act, but should be considered in potentially reducing the culpability of the actor or the severity of the penalty associated with the act under the Chart of Sanctions. Mitigating circumstances cannot be defined for every possible incident; therefore, it is incumbent upon reviewing supervisors to fully articulate the precise mitigating circumstances in the investigations they review.

For example, consider two employees who miss court. One employee misses court because his or her child was in the hospital overnight with pneumonia while the other employee misses court because he or she forgot to set the alarm clock. Both violations are technically the same; however, staying up all night with a sick child would be mitigating, justifying less severe discipline from that noted in the Chart of Sanctions.

An employee's past disciplinary history, liability exposure, intent, injuries caused, Department exposure to liability or damage to its reputation comprise some of the conditions which may be considered when determining mitigating circumstances.

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ALBUQUERQUE POLICE DEPARTMENT
GENERAL ORDERS

SOP 1-9

Effective: 06/27/16 Expires: 12/20/16 Replaces: 05/13/16

D. Sanction Classification

A sanction classification is a level of seriousness and corresponding level of discipline designated to each type of misconduct. Sanction classifications range from 1 (most serious) to 7 (least serious). Sanction classifications form the rows of the Chart of Sanctions.

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ALBUQUERQUE POLICE DEPARTMENT
GENERAL ORDERS

SOP 1-9

Effective: 06/27/16 Expires: 12/20/16 Replaces: 05/13/16

1-9-4 Rules and Responsibilities

A. Observation of Department Rules

The Department maintains rules intended to encourage professional standards. Personnel will observe and comply with Department rules. Fair, neutral and impartial enforcement of the rules serves as a cornerstone for the operation of an efficient and transparent police department, and the systemic and equitable application and enforcement of discipline.

B. Reviewing Supervisors' Responsibilities

The reviewing supervisors' responsibility is to ensure fair, impartial, consistent, enforcement of the rules.

C. Disciplinary and Grievance Systems

1. Disciplinary and grievance systems are designed to promote the fair, equitable and consistent enforcement of rules and imposition of discipline.
2. Personnel are to familiarize themselves with the policies and procedures outlined in the City Merit System Ordinance.

“Attachment L”



ALBUQUERQUE POLICE DEPARTMENT
GENERAL ORDERS

SOP 1-9

Effective: 06/27/16 Expires: 12/20/16 Replaces: 05/13/16

1-9-5 Procedures

A. Chart of Sanctions

The Chart of Sanctions identifies levels of disciplinary action to be imposed based on class designation and frequency of occurrence of the misconduct. The Chart of Sanctions is appended to this policy.

B. Process and Criteria

1. A supervisor considering imposition of discipline will consult the Chart of Sanctions. To determine the appropriate discipline, the supervisor will:
 - a. Determine from the Chart of Sanctions the minimum and maximum disciplinary action applicable for the violation;
 - b. Consider the seriousness of the violation;
 - c. Consider mitigating and aggravating circumstances;
 - d. Consider the disciplinary record of the individual involved;
 - e. Consider whether the conduct was intentional or merely negligent;
 - f. Consider whether the violation caused injury to another; and
 - g. Consider whether the conduct damaged the department's reputation.
2. Supervisor will identify the violation and will charge the employee with the SOP violation that covers the highest class violation applicable to the act or omission. Lesser SOP violations, which are included in the highest class violation, should not be considered when identifying the level of sanction.
3. Once this process is completed, the supervisor will impose the appropriate disciplinary action unless the penalty should be increased due to aggravating circumstances or reduced due to mitigating circumstances.
4. Reviewing supervisors must explain and justify any deviation from the Chart of Sanctions on a supplemental narrative addendum and attach the explanation for the deviation to the Supervisor Recommendation form.

C. Using the Chart of Sanctions

1. Supervisors will determine the class designation of the offense(s) from the Chart of Sanctions.
2. The supervisor will then determine whether the violation is a first, second, or third offense within the class, based on the officer's record in the officer's internal affairs file. The applicable sanction for the offense is found at the intersection of the offense column and the class row on the Chart of Sanctions.

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Examples:

- a. The sanction for the second offense of a Class 5 violation is suspension for 40-80 hours; for the third offense of a Class 7 violation suspension will be for 8-32 hours.
- b. A fourth offense within the same class will be sanctioned as a third offense of the next higher class; a fifth offense within the same class will be sanctioned as a third offense, two classes higher. For example, a fourth offense, Class 7 would move up one class on the third offense column and be sanctioned as a suspension for 40-80 hours. A fifth offense, Class 7 would move up two classes on the third offense column and be sanctioned as a suspension for 88-160 hours.

3. Time Limitations on Chart of Sanctions

- a. Class 1, 2, 3, and 4 offenses are considered when using the Chart of Sanctions throughout an officer's career with no time restrictions on prior offenses.
 - b. For class 5 and 6 offenses: If two years have passed since the last offense within these classes, a subsequent offense will be considered a first offense for determining sanctions.
 - c. For class 7 offenses: If one year has passed since the last offense within this class, a subsequent offense will be considered a first offense for determining sanctions.
4. Whenever violations of any class are still within time guidelines, and a subsequent violation of any class occurs, the subsequent violation will be considered as the next higher sanction.

Examples:

- a. An employee with previous offenses in Classes 6 and 7, still within those time guidelines, and who commits a second offense, Class 7 violation would be sanctioned as a second offense, Class 6 (suspension for 8-32 hours).
- b. Given the same circumstances, if the offense is a first offense, Class 5, it would be sanctioned as a first offense, Class 4 (suspension for 40-80 hours).

5. Multiple Offenses

- a. Multiple offenses occur when an employee commits more than one act or omission that violates department policy.
- b. If multiple offenses arise from the same incident or investigation, each offense will be sanctioned separately by class. Therefore, both reprimands and suspensions can be administered for two or more violations in one incident or investigation.

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- c. If multiple offenses from the same incident are within the same class, each will be considered as an additional offense on the Chart of Sanctions.

Examples:

- i. Three offenses, Class 7 in a single incident would be sanctioned with a suspension 8-32 hours.
- ii. Two offenses, Class 7 and one offense, Class 5 in the same incident (assuming no prior offenses) would require a written reprimand for the two Class 7 offenses and a suspension of 8-32 hours for the Class 5 offense.
- iii. When reviewing the disciplinary history of personnel to establish the number of offenses in a given time frame, only separate incidents will be counted, and the highest class offense will be used.

D. Assignment of Sanction Classifications to Policies

1. Violations subject to disciplinary action are identified by sanction classification and noted in writing located to the left of the text, next to applicable subsections in the SOP manual.

All of the material within a subsection will be subject to the same sanction classification unless otherwise noted.

2. The employee who drafts or revises an SOP subsection will assign a sanction classification as part of the revision. Both the revision and the sanction classification will be appraised during the review process. The SOP Review Committee will ensure that the Internal Affairs Division reviews the sanction classification to evaluate the consistency and appropriateness of the classification prior to the policy being reviewed and approved by the Policy & Procedures Review Board.
3. Sanction classifications noted by a particular SOP subsection may be inadvertently omitted. If this occurs and a sanction classification is needed, the immediate supervisor of the employee being disciplined will:
 - a. Select a sanction classification from a subsection with a sanction classification notation which most closely approximates the SOP subsection with no sanction notation.
 - b. Document that the unsanctioned subsection was used to determine the sanction classification and forward this documentation up the chain of command.
 - c. If the appropriate Deputy Chief, Major, or Executive Director, concurs with the proposed sanction level, the SOP Liaison will be notified in writing and given the responsibility of appending the sanction classification notation to the unsanctioned section. The SOP Liaison then ensures the Policy & Procedures Review Board re-reviews the policy and sanction classification.

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E. Procedures for Imposing Discipline

1. Verbal Reprimands

- a. All supervisors may give verbal reprimands to employees for minor infractions. When a verbal reprimand is given, the supervisor will explain that the action is a verbal reprimand.
- b. The supervisor will note and initial the verbal reprimand and applicable policy violation on the employee card. Personnel are instructed that more severe disciplinary action will be taken for repeated infractions or omissions of the same policy violation.

2. Written Reprimands

The following steps are taken when supervisors give written reprimands to their subordinates:

- a. Supervisors will write a memo containing the text of the reprimand and will forward it to Internal Affairs Division.
- b. The letter of reprimand is drafted by Internal Affairs Division and forwarded through the appropriate chain of command.
- c. With input from the chain of command, the Commander of the reprimanded employee will approve the letter and will forward a copy of the letter to the employee receiving the written reprimand and to Internal Affairs Division.

F. Suspensions and Termination

A pre-disciplinary hearing will be held for all employees facing suspension or termination. The pre-disciplinary hearing is held to provide the employee an opportunity to provide comments about the proposed discipline. The supervisor conducting the hearing will be the Chief of Police or a designee of the Chief. The Chief or designee will write a memo to Internal Affairs Division indicating their final decision with respect to discipline, including the date any suspension will be served or the effective termination date. Internal Affairs Division administrative staff will send Payroll/Personnel a copy of the memorandum. The employee may have legal and/or union representation during the pre-disciplinary hearing.

G. Non-disciplinary corrective action

In order to promote positive, professional behavior from employees, reviewing supervisors should identify whether any non-disciplinary corrective action is appropriate in addition to any applicable discipline.

“Attachment L”



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H. Expectations for Employees on Suspension or Relieved of Duty

7

1. Personnel relieved from duty or on suspension who are scheduled for court are still responsible for appearing in court and will be paid for their attendance.

7

2. Personnel are not eligible for Chief's Overtime while serving a suspension. Personnel scheduled for Chief's Overtime during their suspension must notify the Chief's Overtime coordinator in a timely manner that they are unable to take the assignment, so that a substitute may be obtained.

5

3. During a suspension, personnel will not wear any identifiable part of the official uniform. Upon being relieved from duty, personnel will surrender their badge of office, their take home car, and all other departmental property. Personnel will not act in any official capacity, nor represent themselves as police officers in any manner.

“Attachment L”



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**Appendix
Chart of Sanctions**

CLASS	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
1	SUSPENSION/ DISMISSAL	N/A	N/A
2	SUSPENSION 168 – 240 HOURS	SUSPENSION/ DISMISSAL	N/A
3	SUSPENSION 88 – 160 HOURS	SUSPENSION 168 – 240 HOURS	SUSPENSION/ DISMISSAL
4	SUSPENSION 40 – 80 HOURS	SUSPENSION 88 – 160 HOURS	SUSPENSION 168 – 240 HOURS
5	SUSPENSION 8 – 32 HOURS	SUSPENSION 40 – 80 HOURS	SUSPENSION 88 – 160 HOURS
6	WRITTEN REPRIMAND	SUSPENSION 8 – 32 HOURS	SUSPENSION 40 – 80 HOURS
7	VERBAL REPRIMAND	WRITTEN REPRIMAND	SUSPENSION 8 – 32 HOURS

“Attachment L”

POLICE OVERSIGHT BOARD
INTERNAL AFFAIRS
STATISTICAL DATA FOR THE MONTH OF AUGUST 2016

APD 911 Communications Center
Dispatched calls for Service for AUGUST 2016: 44,420

INTERNAL CASES FOR THE MONTH OF AUGUST 2016

I's

Internal Cases Received: 12
Comprised of:

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

Internal Cases Administratively Closed: 1

Internal Cases Mediated: 0

Total Internal Cases Completed the Month of AUGUST: 8
Comprised of:

- 4-Internal Affairs Investigations
- 4-Area Command

Discipline imposed for Internal Cases/ AUGUST 2016:

4: Verbal Reprimand

4: Letter of Reprimand

Standard Operating Procedures (recommended)

Admin Orders:
3-11-2A1 3-15-2B9
Conduct:
1-04-1F 1-04-3E10 1-04-3D10 1-04-4D
General Order:
1-02-2C 1-37-3A3

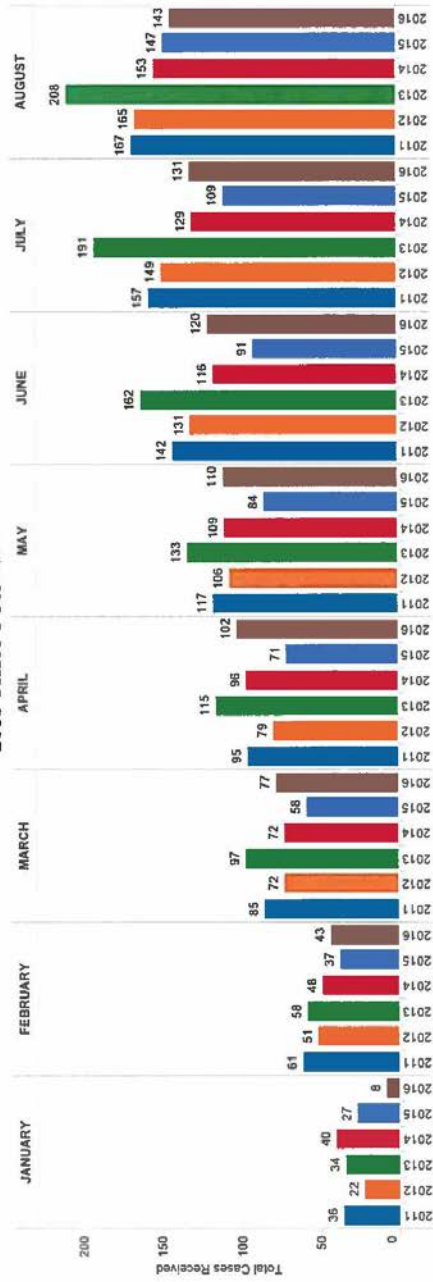
Pending Cases for the Month of AUGUST 2016: 12*

***Is related to the number of cases opened within AUGUST**

“Attachment M”

INTERNAL INVESTIGATIONS
YEAR TO DATE
(JANUARY THROUGH AUGUST)

**YEAR TO DATE TOTAL RECEIVED CASES
2011 THROUGH 2016**

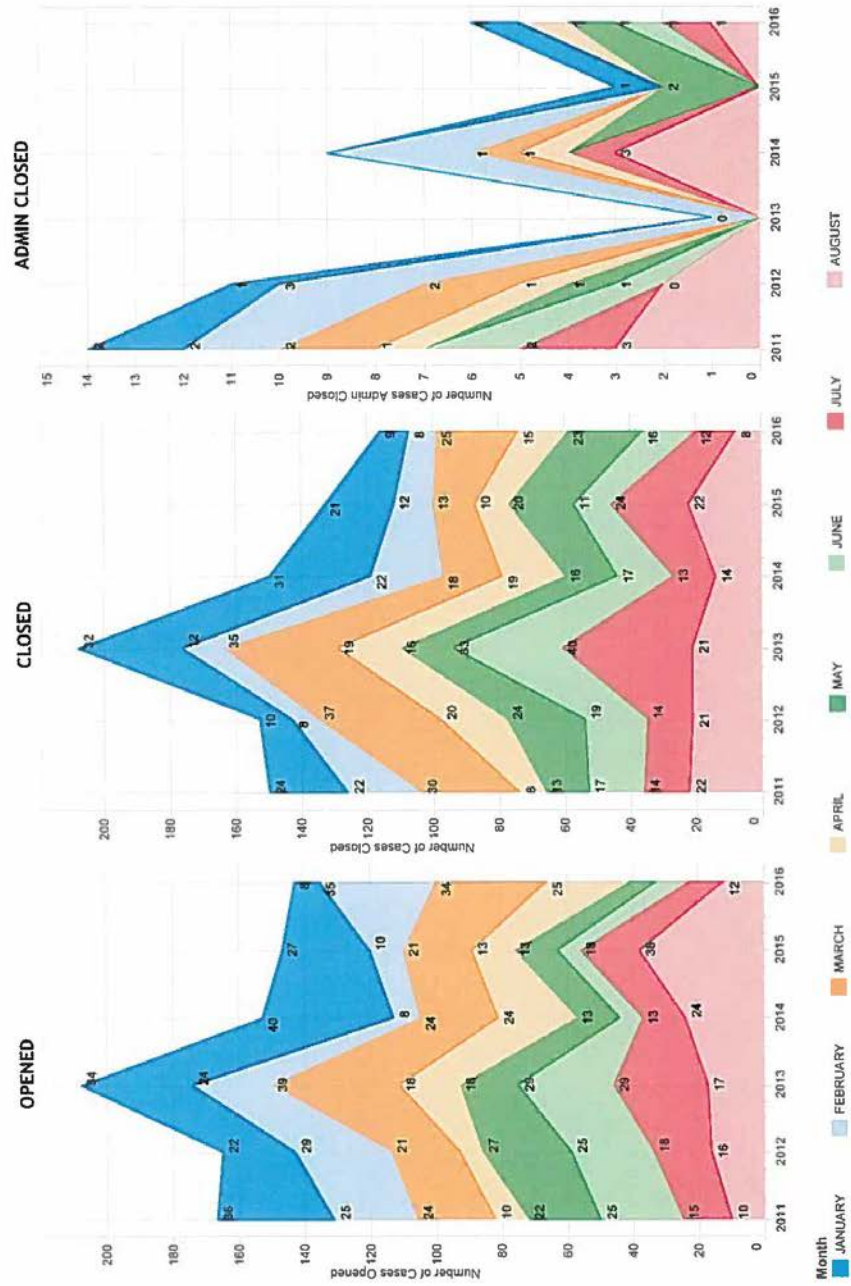


FINDINGS



“Attachment M”

INTERNAL INVESTIGATIONS
JANUARY THROUGH AUGUST



“Attachment M”