

**CIVILIAN POLICE OVERSIGHT AGENCY BOARD
POLICY AND PROCEDURE REVIEW SUBCOMMITTEE**

**Thursday, October 1, 2020 at 4:30 p.m.
By Video Conference**

Members Present:

Dr. William Kass
Tara Armijo-Prewitt
Eric Olivas (late)

Members Absent:

Others Present

Edward Harness, CPOA
Katrina Sigala, CPOA
Valerie Barela, CPOA
Ali Abbasi, CPOA
Diane McDermott, CPOA
Antonio Coca, CPOA
Patricia Serna, APD

Minutes

- I. Welcome and Call to Order:** Chair Dr. Kass called to the order the Policy and Procedure Review Subcommittee meeting at 4:32 p.m.
- II. Approval of the Agenda**
 - a. Agenda approved
- III. Approval of the Minutes from September 3, 2020**
 - a. September 3, 2020 Minutes approved
- IV. Discussion Items**
 - a. Policies reviewed at OPA/PPRB**
 1. Chair Dr. Kass reported on the policies that will presented at OPA and PPRB.
 - b. SOP observations from Semi-Annual reports**
 1. CPOA Data Analyst, Ali Abbasi reported his observations of SOP's reviewed during CPOA investigations and identified SOP 1-1 *Personnel Code of Conduct* as a frequent SOP reviewed during the CPOA investigation process.

c. Review SOP 1-46 Field Training Evaluation

1. Policy and Procedure Subcommittee will flag SOP 1-46 *Field Training and Evaluation Program (FTEP)* and will raise questions the subcommittee has about the policy when it is presented at PPRB.

d. Review SOP 2-68 Interviews and Interrogations

1. Policy and Procedure Subcommittee discussed SOP 2-68 *Interviews and Interrogations* and the related SOP 2-33 *Rights of Onlookers*.
(*see attached*)
2. Chair Dr. Kass requested feedback from Policy and Procedure Subcommittee members related to SOP 2-68 and will discuss after the policy is heard at PPRB.

*****Member Olivas arrived at 5:00 p.m.*****

e. Recommendations to APD Training Committee

1. Policy and Procedure Subcommittee and CPOA staff discussed the email received from the APD Training Committee.
2. Chair Dr. Kass will request an invitation to next APD Training Committee Meeting to attend as an observer.

f. Update on SOP 2-98 Gunshot Detection Procedure – Information request

1. Chair Dr. Kass provided an update on SOP 2-98 and that the information request is currently under review at City Legal.
2. CPOA Data Analyst, Ali Abbasi shared the concerns he had related to SOP 2-98.

g. Update on SOP 3-52 Policy Development Process

1. Chair Dr. Kass requested feedback from Subcommittee Members on SOP 3-52 and is waiting on an invite from Patricia Serna, APD to present recommendations. (*see attached*)

V. Other business

- a. Patricia Serna, APD provided an update on SOP 2-98 *Gunshot Detection Procedure* and reported that APD will provide the requested information within the next week.
- b. Chair Dr. Kass announced that SOP 1-1 *Personnel Code of Conduct* and SOP 3-13 *Officer's duties and Conduct* will be discussed at the next regular scheduled Policy and Procedure Subcommittee meeting.

VI. Next meeting November 5, 2020 at 4:30 p.m.

VII. Adjournment

- a. The meeting adjourned at 5:46 p.m.

APPROVED:

DocuSigned by:

Dr. William J. Kass

November 5, 2020

Dr. William Kass, Chair

Date

Policy and Procedure Review Subcommittee

CC: Julian Moya, City Council Staff
Ethan Watson, Acting City Clerk
Pat Davis, City Council President (via email)

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

Attachments



2-68 INTERVIEWS AND INTERROGATIONS

Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):

A. Related SOP(s)

- 2-8 Use of On-Body Recording Devices
- 2-22 Juvenile Delinquency
- 2-60 Preliminary and Follow Up Criminal Investigations
- 2-82 Restraints and Transportation of Individuals

B. Form(s)

None

C. Other Resource(s)

None

D. Rescinded Special Order(s)

None

2-68-1 Purpose

The purpose of this policy is to provide procedures to personnel who are completing interviews and interrogations.

2-68-2 Policy

It is the policy of the Albuquerque Police Department (Department) to ensure interviews and interrogations are conducted in accordance with New Mexico State Law.

2-68-3 Definitions

A. Detention of Witnesses

The detention of witnesses is a seizure as defined by the Fourth Amendment of the U.S. Constitution. This detention should be a reasonable stop, which interferes minimally with the liberty of the individual.

B. Witness

Any individual who sees, hears, or otherwise has information relevant to the investigation, such as audio or visual recordings, of a criminal act or major event. There is no reasonable suspicion or probable cause to believe these individuals are



committing a crime.

7

2-68-4 Rules and Procedures

A. Officers/detectives conducting interviews of witnesses shall:

1. Conduct a preliminary interview to determine if an individual has information pertinent to the investigation of the crime.
2. Ask witnesses if they are willing and able to remain on scene to provide information to investigators.
3. Attempt to obtain a written or recorded statement from witnesses who do not wish to remain on scene.
4. If witnesses refuse to give a statement, officers/detectives shall use the Crime Scene Canvass and Witness Information Form and complete the following:
 - a. Use a separate form for each person contacted and each location that contact is not made;
 - b. Ensure that witness' signature is completed;
 - c. Document in their report who they contacted and where; and
 - d. Provide detectives with all Crime Scene Canvass & Witness Information Forms immediately upon detectives' arrival at the scene.
5. Ask witnesses, who express a willingness to remain at the scene, not to discuss the incident with other witnesses, media or other citizens, including using their mobile communication devices to discuss the incident.
 - a. Officers shall not seize the mobile communication devices from witnesses without probable cause.
6. Detectives shall make every attempt, as soon as possible, to accommodate witnesses who need to leave a scene before being interviewed.

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7. Physical Detention of Witnesses

- a. Unless articulable facts that the individual is dangerous exists, officers shall not pat down, handcuff, or otherwise physically detain individuals who have been identified as witnesses.
- b. Officers may prevent witnesses or others from entering a crime scene that is secured or may remove witnesses from within a secure crime scene perimeter, as this does not constitute a detention in and of itself.
- c. Officers may transport witnesses to a substation or another location only upon their express consent. They may withdraw this consent at any time.
- d. Officers shall not detain witnesses within their own home without the consent of the witness. The witness may withdraw their consent at any time.



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B. On Scene Supervisor

1. Shall assign an officer to act as a liaison for these witnesses. The officer shall allow witnesses to access food, water, restrooms, and a telephone if at all possible, and provide updates to witnesses as they become available.
2. May request the Mobile Community Substation to respond to provide a comfortable place where witnesses may wait.
 - a. In the event there is a large number of witnesses, officers and detectives may request a secondary Mobile Community Substation or will make an effort to secure a location for witnesses to wait for detectives if they so choose.

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C. Custodial Interviews and Interrogations

1. Department personnel will:
 - a. Electronically record (audio/video) all custodial interrogations in their entirety;
 - i. If the location of the interview has video capability the interview must be video recorded;
 - ii. In the event the location does not have video recording capability, the officer will use their on-body recording device to record the interview and or interrogations;
 - iii. In the event that there is no audio or video recording capabilities, officers will notify their supervisor;
 - iv. Supervisors shall ensure the officer is provided with an appropriate location equipped with appropriate recording devices.
 - b. Include the advice of constitutional rights, per Miranda, on the recording;
 - c. Tag the recorded interview into evidence; and
 - d. Document in the report that the interview was electronically recorded.
 - i. The reason for not recording the interview will be documented in the officer's report.

7

D. General Security Concerns

1. The interview rooms shall be located in secured areas.
2. All arrestees/prisoners shall be searched prior to being brought into the interview room.
3. Only one (1) arrestee/prisoner at a time should be in the interview room. All arrestees/prisoners will be handcuffed prior to entry of the interview room. Handcuffs may be removed at the discretion of the officer/investigator detective conducting the interview.



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-68

PPRB Draft 07/27/20

4. While an officer is conducting an interview or interrogation, a second officer should be present in the room or monitoring. If the interviewer needs assistance, they shall verbally and/or physically summon the officer monitoring the interview, or utilize the "emergency" key on their police radio.

E. Weapons Control

1. Officers may remove their firearm when conducting interviews in a secure location.

7

F. Interviews and/or Interrogations at Hospitals

1. Officers/Detectives shall not interfere with medical treatment and, when feasible, should be conducted during normal visiting hours.
2. If the individual is being treated in a limited access area (e.g. ICU/CCU), arrangements will be made with the attending physician.

DRAFT



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SOP 2-68

PPRB Draft 07/27/20

DRAFT



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-68

Effective: 07/09/20

Review Due: 07/09/21

Replaces: 01/17/16

2-68 INTERVIEWS AND INTERROGATIONS

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[2-22 Juvenile Delinquency](#)

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2. If the individual is being treated in a limited access area (e.g. ICU/CCU), arrangements will be made with the attending physician.

Proposal to Improve SOP 3-52 Policy Development Process

Introduction:

On creation of the new version of the CPOA in 2015, the city ordinance O-2019-007 (as amended) gave the CPOA power to participate in the APD policy review process and make recommendations to improve SOPs . The ordinance reads in part:

§ 9-4-1-2 PURPOSE.

...

*(D) Gather and analyze information, reports, and data on trends and potential issues concerning police conduct and practices and the related impacts on the community and individuals; and
(E) Provide input, guidance and recommendations to the City Council, the Mayor and the Chief of Police for the development of policy for the Albuquerque Police Department."*

§ 9-4-1-4 CIVILIAN POLICE OVERSIGHT AGENCY.

...

(5) CPOA Policy Recommendations. The CPOA shall engage in a long-term planning process through which it identifies major problems or trends, evaluates the efficacy of existing law enforcement practices in dealing with the same, analyzes and evaluates data (including APD raw data), innovative practices, national trends, and police best practices, and establishes a program of resulting policy suggestions, recommendations, and studies each year. APD shall provide Board members, the Director, and CPOA staff with reasonable access to APO premises, files, documents, reports, data (including APD raw data), and any other materials that are reasonably necessary for this purpose. For purposes of this ordinance, "APD raw data" includes but is not limited to any facts and statistics or other data gathered, obtained, or that are otherwise within the possession of APD before being processed or analyzed; "police best practices" refers to law enforcement methods or techniques based upon the experiences and outcomes in other police departments or law enforcement agencies that have documented superior results compared to other practices, and to recommendations by recognized research and policy development groups, forums, consortiums, or similar. ...

While the power to make recommendations has existed on paper for five years, the CPOA had little impact on policy development until the City and APD administration changed in 2017. At that time under a new city administration, the Office of the City Attorney, APD Office of Policy Analysis and the CPOA jointly participated in rewriting SOP 3-52 which guides the APD policy development process. For a definition of the terms used in this document, please refer to that SOP. The link to SOP 3-52 is: <http://documents.cabq.gov/police/standard-operating-procedures/3-52-policy-development-process.pdf>.

SOP 3-52 allows active participation of the CPOA at quasi-public OPA meetings where revisions to a policy are presented by subject matter experts. This meeting is followed by a 15-day commentary period, during which anyone, including members of the public, can submit recommendations on a form available at the City website:

<https://app.smartsheet.com/b/form/8d8d2b6c6520407b8c9bc9bcaf3d02b9680>

Changes to the OPA meeting process have been made that depend on the current OPA administration which itself has changed several times in the last three years. Currently SOP edits are not made at the OPA meeting at which the SOP is presented. Edits are made later after receiving comments during the 15 day commentary period. This process could be made more transparent.

The SOP also gives voting rights to the CPOA and POB at PPRB meetings. An approval vote for a policy at PPRB moves the policy under review along the revision process and initiates a 30 day recommendation period. The POB can submit recommendations by letter to the Chief of APD to propose further changes during this period or show support for the revised policy. Any letter to the Chief from the CPOA requires the approval of the full POB by majority vote and would be made only after a thorough review of the policy.

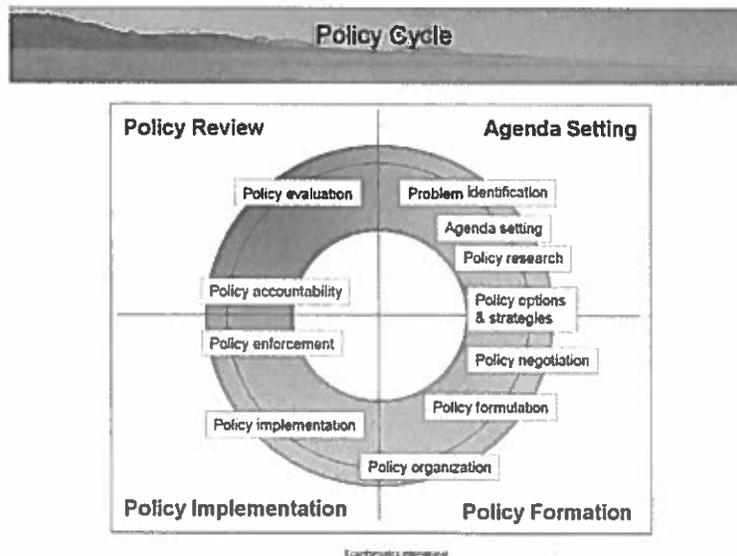
The CASA provides that every APD SOP be reviewed annually. SOP 3-52 was published in April 2018 and is overdue for review.

This proposal makes modifications to SOP 3-52 that attempt to fit with best policy development best practices and which will also address the ordinance mandate to recommend policies improvements that will increase the efficacy of APD.

SOP 3-52 deals primarily with a portion of the policy development cycle identified as **Policy Review** in the figure below. Since most APD policies already exist, the focus of the APD policy development process is to make modifications to language to clarify understanding, adjust to changes in law, and accommodate changes in APD organizational responsibilities - all of which are components of

Agenda Setting. Armed with an existing policy, the OPA presenter can move to **Policy Formation** when OPA accepts the policy modifications presented. For very extensive or sensitive policy changes, more than one OPA session may be required to get agreement for the changes.

What is missing from the APD process is the use of data collected during the **Policy Implementation (Policy Enforcement)** phase to evaluate the effectiveness of the policy (**Policy Accountability**) and include that as a necessary part of **Agenda Setting**.



The importance of using data for policy evaluation can not be overemphasized. Data allows one to make decisions based on the effectiveness of a technology such as on body recording devices (SOP 8-2) which provide invaluable evidence for exonerating or substantiating complaints against officers, 75%-80% of complaints result in exoneration when OBRD data is available.

On the other hand, no one knows how effective the StarChase Pursuit Management System (SOP 2-13) is for tracking vehicles. At several OPA presentations of this technology, no data was given to show usage, costs, training, or success rate. The same applies to Tire Deflation Devices (SOP 2-11) and Pursuit Intervention Technique (SOP 2-12) where no liability data were available.

Application of data for policy evaluation allows one to invest resources in fruitful areas and divest from less fruitful endeavors. This is not possible under the current OPA process because there is no one present at OPA who is empowered to consider the financial impact associated with policies. There have been SOPs presented which reveal under gentle questioning the lack of resources available to do the assigned job. Case backlogs indicate when a unit is overextended (Armed Robbery, Cold Cases,

Rape Kits, ...) and needs more resources. Without a budget representative to carry this to the appropriate command level there is no relief for the situation.

This proposal focuses on the earliest steps in the APD policy development process – where the data presented at OPA has the most effect on evaluating and modifying policies.

SOP 3-52 recommended changes

The following recommendations follow the format SOP 3-52 which contains 17 paragraphs describing the associated policy development process flowchart. The existing policy language is shown in italics.

3-52-1 Policy The transparent, structured, and informed development of Departmental policies and standard operating procedures is a crucial part of meeting the Department's mission to provide effective and constitutional policing to the community. In order to deliver upon this mission, the development of policies and procedures will balance the need to educate the public about these policies and procedures while also affording a meaningful opportunity for input from Department personnel and the public. Police best practices and objective analyses of APD data will be the measures against which policies will be evaluated for effectiveness and fairness.

Section 3-52-3

1: Comments and recommendations come to the Department from a variety of sources and are routed to OPA. OPA will review the comments and recommendations and may decide that a change in policy is warranted. It also reviews each policy on an annual basis. In either case, OPA posts proposed changes to policy on APD's website and accepts comments from the public on them. Proposed policy changes are then submitted to PPRB for a vote. Policies are then submitted to POB for review and comment. The proposed policy changes are then submitted to the Chief for final approval.

Recommended substitute language:

1: OPA collects comments and recommendations from various sources within APD and the public. OPA reviews the comments and recommendations and prioritizes and schedules policy reviews with attention to the CASA mandate for annual reviews. OPA posts proposed change to policies and

accepts comments from the public. Proposed policy changes are then submitted to PPRB for a vote. Following PPRB approval, policies are submitted to POB for review and comment. Finally, the proposed policy changes are submitted to the Chief for approval.

2. In advance of an OPA meeting the subject matter expert for the involved policy will create a packet with (a) the existing standard operating procedure, (b) a draft with revisions to the existing standard operating procedure and (c) materials to explain why particular changes to the standard operating procedure are based upon best policing practices or Department specific operational considerations. This packet will be provided to OPA attendees and will be posted on the APD website a minimum of two business days before the OPA meeting.

Recommended substitute language:

2. In advance of an OPA meeting, OPA will identify the subject matter expert for each policy to be presented. The subject matter expert for the involved policy will create a packet with (a) the existing standard operating procedure (b) the draft with revisions to the existing standing operating procedure and (c) materials that include data that relates to the effectiveness of the policy. These materials should include when available: data collected from forms associated with a particular SOP; data analyzed in collaboration with the appropriate APD data analysis unit to show trends and correlations; and recommendations for data that could be collected to improve the policy evaluation. In addition, the subject matter expert, in collaboration with the OPA, shall research best police practices for comparison to the APD policy proposed for review. This packet will be provided to OPA attendees and will be posted on the APD website a minimum of two business days before the OPA meeting.

Insert another paragraph:

2a. All SOPs under review should be modified to include the following sections:

Objective: Each policy should include a description of that policy's objectives and how the SOP relates to other policies.

Resources: Each policy contain a description of the unit that is responsible for a policy, the human resources assigned and contact information within APD by unit or division, and an assessment of the training requirements associated with the policy.

Impact: Each policy includes a description of the impact on the community. For example, in the armed robbery unit, there is one sergeant and four detectives who each have a case load of 80-120 cases.

There is a backlog of 1600 cases. How are victims of armed robberies notified of the disposition of their cases? How is the backlog addressed? What resources are being devoted to improving the service to the community?

Relevant forms: Each policy lists forms that collect data relevant to the SOP and how that data is available within APD.

Related policies and special orders: If special orders have been issued since the policy was last reviewed, it may be necessary to develop a method of tracking the policy and changes resulting from special orders so the current operational policy is known.

3. An OPA meeting to discuss the involved policy will then take place where the subject matter expert will provide a presentation to attendees. The presentation will provide background and explanation of the policy and there will also be a presentation of the draft policy followed by a question and answer session.

Recommended addition: OPA attendees should include APD or city representatives who are familiar with the APD budget process and have the ability to make budget evaluations and assessments and recommend budget changes in budget negotiations.

4. All individuals attending an OPA presentation can submit comments on the draft policy and OPA packet as part of their attendance. Importantly, recommendations from any member of the public, on a draft policy, must be provided seven (7) calendar days before the PPRB meeting on the involved policy. These recommendations can be submitted through the City website.

Comment: Since PPRB meetings have been scheduled anywhere from one month to six months from the OPA meeting, it is impossible for the public to know when the 7 day deadline approaches. More advance warning of policies being sent to PPRB needs to be given.

5. OPA presentations and notes from the question and answer session of an OPA meeting will be archived and available on the City website within two business days of a given presentation. These tasks will be completed by the Department's SOP liaison.

Comment: _____

6. After the OPA presentation there will be a ~~seven (7)~~ fifteen (15) calendar day period for personnel to provide recommendations on a draft policy through PowerDMS.

Comment: What happens when PowerDMS goes away?

7. The recommendations from personnel and the community will be compiled in advance of the meeting for presentation and consideration as part of PPRB deliberations. Where appropriate the (Department or stakeholder) sponsor of a recommended change or addition to policy may be present to provide an explanation for a specific recommendation.

Comment: Is there a robust, transparent process in place for doing this?

8. If it is voted upon by PPRB that a proposed policy recommendation from a member of the community is not going to be incorporated into the policy, the subject matter expert, in collaboration with the SOP Liaison will draft a letter to the submitting party, with copy to the Chief of Police, explaining why the proposed language was not incorporated into the policy. This letter will be provided to the community member within thirty (30) days from the Chief of Police approving the policy.

Comment: See paragraph 7 comments

9. Any policy related to the Department's approach to interacting with individuals in crisis will be forwarded to the Mental Health Response Advisory Committee (MHRAC) for review and comment. This will be done two weeks in advance of OPA and the chairs of MHRAC will be invited to attend OPA and PPRB.

Comment: _____

10. The PPRB has the authority to deny or accept a recommendation on a draft policy before it is submitted to the Chief for approval.

Comment: Does this apply to the CPOA?

11. If a policy proposal is tabled at PPRB, the Chair shall appoint a member to make the necessary corrections or complete the necessary research to ensure that the PPRB can reconsider the policy.

Comment: _____

12. A policy which does not concern the Court Approved Settlement Agreement (CASA), which has passed PPRB and has been submitted to POB for a thirty day time frame to review and provide recommendations, will then be considered by the Chief of Police for potential revision and approval.

Comment: _____

13.A CASA related policy, once it has been approved by PPRB, will be submitted to the POB for a thirty-day review and commentary period. Fifteen business days from being provided to POB the policy will be presented to the Independent Monitor and Parties to the CASA for review and comment. The Independent Monitor and Parties will have fifteen business days to review and provide comments.

Comment: There are approximately 44 CASA related policies that must follow this process. Has this fifteen day deadline been met in the past? Should this requirement be reviewed? This policy SOP 3-52 is one of them and might be a good test.

14.A resolution draft, considering recommendations by CPOA ~~POB~~, the Parties and Independent Monitor will be prepared and presented to the Independent Monitor for approval. Once approved by the Independent Monitor the CASA related policy will be reviewed and approved by the Chief of Police.

Comment: _____

15.All policies will be posted on the PowerDMS system after they have been approved by the Chief. Once posted on PowerDMS all Department personnel are required to review the involved policy and electronically verify that they have read and understand the policy.

Comment: How is this information conveyed to the community? For important policies such as the use-of-force suite rewritten two years ago, how does the community know that this will result in the necessary culture changes?

16.The Chief of Police will have forty-five days (45) from the receipt of any policy recommendation from the CPOA to provide an indication that the recommendation will be incorporated into policy or an explanation of why the recommendation will not be followed.

Comment: How can we make this requirement independent of the person who holds the Chief position? The process improved immensely with a new city administration and new chief but it could easily regress.

17.OPA shall review any new Departmental policies six months after implementation and annually thereafter. OPA shall review all other Department policies on at least an annual basis.

Comment: This deadline is rarely met. If it continues to be a requirement, additional resources need to be committed to OPA.