

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT BOARD

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

Members Present:

Joanne Fine, Chair
Valerie St. John, Vice-chair
Johnny J. Armijo
Susanne Brown
Eric Cruz
Chantal M. Galloway
Dr. William Kass
Rev. Dr. David Z. Ring III
Leonard Waites

Others Present

Edward Harness, CPOA
Michelle Contreras, CPOA
Maria Patterson, CPOA
Cmdr. Jimmy Collins, APD
Lt. Jennifer Garcia, APD
T.J. Wilham, APD
Helen Maestas, Mayor's Office
Julian Moya, City Council
Jeremy Schmehl, Asst. City Atty
Chris Sylvan, CPC

Meeting Minutes

I. Welcome and call to order – Chair Fine called to order the regular meeting of the Police Oversight Board at 5:01 p.m. and read the Police Oversight Board's mission statement.

PO Box 1293

II. Pledge of Allegiance – Member Galloway led the meeting in the Pledge of Allegiance.

Albuquerque

III. Approval of the Agenda

a) A motion was made by Vice-chair St. John to approve the agenda as written. Member Brown seconded the motion. The motion was carried by the following vote:

NM 87103

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

IV. Public Comments – None.

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

a) **Approval of the Minutes from December 14, 2017**

1. Copies of the draft minutes from December 14, 2017 POB meeting were distributed to each member in their packets.
2. A motion was made by Member Ring to approve the minutes as written. Member Brown seconded the motion.
3. Chair Fine asked for a discussion.

1. Member Armijo pointed out that page 6 states the Community Outreach Subcommittee’s meeting is on January 2. The correct date is January 22.
 2. Member Armijo asked for clarity, in regard to letter g. on page 3, about how community chair check-ins would work. Chair Fine clarified that Director Harness and Chair Fine check in with each other but it would be great if all of the subcommittee chairs could check in with Director Harness so that Director Harness could put out a report about what is going on in all of the subcommittees.
 3. Member Kass wished to note that a new chair for the Community Outreach subcommittee has not been elected as stated in item 3, page 6. Later in the meeting (in item X—Committee Reports) Member Ring stated that Member Kass had left early during the meeting in which it was decided Member Armijo would be the next chair.
 4. Member Kass also pointed out that CIRT is misspelled on page 13 in item 8.
 5. Member Kass asked if the spelling of Sergeant Lockey’s name was correct. It was confirmed that the spelling is correct.
 6. Member Cruz wanted it noted that he left early on the first page. He also noted that the minutes say Member Brown left on page 8 and page 10, the latter being incorrect.
4. Chair Fine asked for a vote to accept the minutes as amended. The motion was carried by the following vote:

For: 8 – Armijo, Brown, Cruz, Fine, Galloway, Kass, Ring, St. John

*****Member Waites arrived at 5:05 p.m. *****

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

a) Administratively Closed Cases

127-17	185-17	189-17	194-17	195-17
199-17	200-17	201-17	202-17	203-17
204-17	205-17	209-17	210-17	

- a) Member Waites motioned to approve the *Administratively Closed* cases as presented. Member Brown seconded the motion and there was no discussion of any cases. The motion was carried by the following vote:

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

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

b) Cases Investigated

155-17

1. Member Waites made a motion to accept the *Case Investigated*. Member Armijo seconded the motion. The motion was carried by the following vote:

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

VII. Non-Concurrence Case: 153-17

a) Member Waites made a motion to approve the non-concurrence case. Member Armijo seconded the motion. The motion was carried by the following vote:

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

VIII. Serious Use of Force/Officer Involved Shooting Cases

C2016-37 C-2016-73 C2016-61 C2016-74 C2017-19
C2017-25 C2017-26

a) Chair Fine explained that the board has not dealt with this type of case before and how they differ from the other cases. Chair Fine added that the Case Review Subcommittee decided to present these cases individually in the POB meeting so that other board members and the public can learn from Director Harness's expertise.

b) C2016-37

1. Director Harness read a summary of case C2016-37.

2. Member Ring asked Director Harness what he found in his review. Director Harness replied that he did concur with the Force Review Board's findings. Director Harness also clarified that these cases were a review of what the FIT and CIRT teams presented to the Force Review Board (FRB); the CPOA did not investigate these cases. Chair Fine noted it would be helpful to hear Director Harness's conclusion for all of the cases.

3. Member Brown said she would appreciate any suggestions Director Harness could make about improving this process. Director Harness noted that this process is already changing because the Use of Force Policy is being rewritten.

4. Member Waites motioned to accept the findings. Chair Fine seconded the motion. The motion was carried by the following vote:

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

c) C2016-53

1. Director Harness read a summary of C2016-53 and noted that he thought that leg-sweeping the cuffed suspect to the ground was out of policy.

2. Member Cruz asked for the rationale for the Force Review Board voting the other way. Director Harness told Member Cruz that the FRB thought the use of force was justified.

3. Chair Fine asked if it would be different if the suspect were not handcuffed. Director Harness said it would be very different.
4. Member Ring asked what it meant to disagree with the FRB's findings. Member Fine replied that it would mean that they do not concur with their findings.
5. Member Armijo asked if the officer involved was injured. He was not.
6. Member Brown expressed her distaste for the term "if feasible" and Director Harness replied that the POB has expressed their dislike of the phrase in the Use of Force Policy and hopes it will be removed. Chair Fine suggested they put that conversation in Member Kass's report in the future.
7. Member Cruz asked what the consequences are of a dissenting vote. Chair Fine explained that the consequence of voting to accept Director Harness's conclusion when he did not concur with the FRB is writing a letter to the chief that states Director Harness did not concur.
8. Member Waites motioned to write a letter to the chief to note the board's position on this case. Member St. John seconded the motion. The motion was carried by the following vote:
For: 6 – Armijo, Brown, Fine, Ring, St. John, Waites
Against: 1 – Cruz

d) C2016-61

1. Director Harness read a summary of the case and noted that he found the use of force out of policy because the officer failed to give a warning before discharging the ECW (electronic control weapon, otherwise known as a Taser).
2. Member Ring asked about the number of cycles allowed. Director Harness explained that three cycles is within the limit but is considered a serious use of force at that point.
3. Member Cruz motioned to write a letter to chief. Member Armijo seconded the motion. The motion was carried by the following vote:
For: 7 – Armijo, Brown, Cruz, Fine, Ring, St. John, Waites

e) C2016-74

1. Director Harness read a summary of the case and noted that he concurred with the findings.
2. Member Waites motioned to accept the review of C2016-74. Member Galloway seconded. There was no discussion. The motion was carried by the following vote:
For: 8 – Armijo, Brown, Cruz, Fine, Galloway, Ring, St. John, Waites

f) C2017-19

1. Director Harness read a summary of the case and said he concurred that the use of force was in policy.
2. Member Waites motioned to accept the case. Chair Fine seconded. The motion was carried by the following vote:
For: 7 – Armijo, Brown, Cruz, Fine, Ring, St. John, Waites

g) C2017-25

1. Director Harness read a summary of the case and noted his concurrence with the FRB's findings that the use of force was within policy.
2. Member Waites asked if the case number was incorrect on this case. Director Harness replied that this issue had been fixed.
3. Member Waites made a motion to accept the case as written. Member Brown seconded. The motion was carried by the following vote:
For: 7 – Armijo, Brown, Cruz, Fine, Ring, St. John, Waites

h) C2017-26

1. Director Harness read a summary of the case. Director Harness concurred with the FRB vote that the use of force was within policy.
2. Member Waites motioned to accept the case as written. Member Galloway seconded the motion. The motion was carried by the following vote:
For: 8 – Armijo, Brown, Cruz, Fine, Galloway Ring, St. John, Waites

i) Review Process.

1. **Explanatory Class.** Member Kass commented that although he cannot yet vote on cases yet it would be very useful to have some sort of class that explains the process of finding the cases and reviewing them.
2. Chair Fine reminded the board that these cases are different from other cases the board has reviewed because the cases have already been investigated and the board is just reviewing them for quality and completeness.
3. **Process.** Chair Fine recommended that, moving forward, the subcommittee continue to review the cases thoroughly as individuals in order to go over them in detail with Director Harness in Case Review meetings. That way, in POB meetings, Director Harness can present the cases and the board can discuss what they have learned about policy and what the staff thinks about this process. Chair Fine added that the staff should be the board's point of entry.
4. **Board and Staff Responsibilities.** Member Kass stated that he would like to have a discussion about all of the board's activities regarding the responsibilities of board members versus the staff's responsibilities. Member Kass stated that, in his view, the board should take advantage of

the staff's experience. He added that it is inefficient for the board to do what the staff can do better.

5. Chair Fine said that on other boards she has served on, the staff does all of the preliminary work and the board serves mainly to vote on it. Chair Fine agreed that the POB needs to find a better balance and suggested discussing it at the next meeting as an aspect of each subcommittee's report.
6. Member Waites agreed and added that when the subcommittee presents to the board, the subcommittee members should outline some of the pertinent discussions they had in their subcommittee meeting about the cases.
7. Member Kass added that the board meetings are a great place to have this conversation because they can all discuss it without violating the Open Meetings Act.
8. Chair Fine restated the board's intent to add to the next POB meeting's agenda a place for each committee to talk about how they think the process is working, what might work differently, and why.
9. **File Organization.** Director Harness noted that part of the confusion is due to the lack of uniformity of files and how they're put together. The CPOA has, in the past, requested APD create some kind of uniform file organization.
10. Chair Fine added that this feedback should go to APD, noting that she brought this issue up with Deputy Chief Garcia but hasn't heard anything back. Chair Fine also suggested being proactive with this by telling the department what it is in the files they will need to look at.

IX. POB's Review of Garrity Materials.

I-23-17 I-172-16

- a) Director Harness stated that there are two officer-involved shootings ready for review so the board needs to vote to have those Garrity materials set aside for the board to review. He added that in accordance with the ordinance, if the board votes to review them, those materials will be made available for the board members at the IA Division office.
- b) Chair Fine asked Lt. Garcia for suggestions regarding the orchestration of board members reviewing the files. Lt. Garcia told Chair Fine that if the board was able to provide her with a couple of dates where the board could get together, the files would be made available to them. She further suggested the board create a schedule so that 3-4 members are there at a time and one would show up as one was leaving.

- c) Chair Fine noted that because they can't have more than four members together at a time, they would have to have at least three time slots set up.
- d) Chair Fine motioned to put the process in place for the board to review the Garrity materials on the cases listed under item X a. and b. Member Waites seconded the motion.
- e) Chair Fine asked if the Garrity materials were on a timeline. Director Harness replied that there is no timeline but if the board has the opportunity to review the information it can be set for the next POB meeting on February 8, 2018.
- f) Chair Fine asked who they should call to schedule a time. Lieutenant Garcia replied that board members can contact her directly or any of her admin staff at 768-2880.
- g) The board returned to the motion on the table. The motion was carried by the following vote:

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

X. Reports from Subcommittees

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

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

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

1. **New Chair.** Member Ring recalled that in the last Community Outreach meeting on December 7, 2017 Dr. Kass had to leave quite early and later in that meeting the remaining three members voted for Johnny Armijo to be chair starting in January. Member Ring then let new Community Outreach Subcommittee Chair Armijo do the report.
2. Member Kass reported that he went to the Northwest CPC meeting last Tuesday and Chief Geier, Councilor Winter, Councilor Gibson and Deputy Chief Garcia were there. Chief Geier gave a well-received review of what is going on in APD and there were good questions from the community.
3. Member Kass told the board that he went on two ride-alongs since the last meeting and he considers ride-alongs to be a form of community outreach because it gives the board an opportunity to explain to APD what the oversight process is about. He observed a positive attitude among the rank and file, especially around crisis intervention training.
4. Member Armijo asked if the ride-along form worked out and where to get the form. Member Kass explained that he had no trouble using it and Chair Fine added that the form can be found in SharePoint.

5. Member Armijo stated that he went to the West Side Neighborhood Association meeting which was also attended by Commander Michelle Campbell, Lieutenant Perez, and a BCSO Undersheriff (Member Armijo couldn't recall his name). Member Armijo gave a brief presentation about the CPOA and POB. Member Armijo was unable to attend the Southwest CPC meeting.
 6. **Next Meeting.** The Community Outreach Subcommittee will have a special meeting on January 22, 2018 to go over our goals and objectives.
 7. Director Harness reported that he attended the Northwest CPC meeting a week after the last POB meeting and Deputy Chief Medina was there. He also attended the Foothills CPC meeting this Monday and talked about the volume of complaints the CPOA has received over the last year. Director Harness went to the CPC Northeast meeting and noted that the policy on policy and the Use of Force Policy are two of the higher priorities as expressed by Deputy Chief Garcia. Finally, Director Harness attended the Southwest CPC meeting on Thursday where Chief Medina had a CIT (crisis intervention training) sergeant present.
 8. **Documentation of Outreach.** Member Armijo suggested that they start documenting all of the CPC, neighborhood, and similar meetings that board members attend. Director Harness replied that Amanda Bustos uses meeting minutes to track all of the board members' attendances of community meetings and the attendances are highlighted in the annual report.
 9. Member Armijo asked if they could receive a list of all the different meetings board members have attended every quarter. Director Harness replied that if the Outreach Subcommittee lets the staff know what information and time frame they would like it, staff could put together a report for them.
- b) **Dinner.** Member Brown made a motion to break for dinner. Member Cruz seconded the motion. The motion was carried by the following vote:
For: 9 –Armijo, Brown, Cruz, Fine, Galloway, Kass, Ring, St. John, Waites

----Dinner break began at 6:00 p.m. and the meeting reconvened at 6:40 p.m. ----

- c) **Motion to Resume.** Vice-chair St. John made a motion to resume the meeting. Member Waites seconded the motion. The motion was carried by the following vote:
For: 9 –Armijo, Brown, Cruz, Fine, Galloway, Kass, Ring, St. John, Waites
- d) **Policy and Procedure Review Subcommittee – *William Kass*** - For more information about the POB Policy and Procedure Subcommittee meetings, agendas

and minutes, please refer to the website located here:

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

Member Kass gave a report on behalf of the Policy and Procedure Review Subcommittee, which last met on December 21, 2017, as follows:

1. Overview of Report.

- a. Member Kass reported that at their last subcommittee meeting the Policy and Procedure Subcommittee decided to focus on one policy at a time. Member Kass used the example of SOP 3-41 and explained why it is important.
- b. Member Kass explained that Diane McDermott rewrote parts of SOP 3-41. In the last subcommittee meeting they discussed those changes and made further suggestions. He then stated the SOP was ready for submission to the full board for approval.
- c. Member Kass stated that he will also talk about some other pertinent activities later, such as the last OPA meeting and Director Slauson's retirement.

2. Changes to SOP 3-41 (See attachment "A")

- a. Member Kass suggested reading over all the changed points together and Chair Fine pushed instead for going through members' comments page by page.
- b. Member Kass read the purpose of 3-41.
- c. On page 1, Member Ring suggested changing "effect" to "effects" (in purpose paragraph).
- d. Member Armijo thought the very last sentence of item B. on page 1, "There are two types of complaints..." should be reworked to read, "There are two types of complaints: 1) civilian police complaints and 2) internal complaints."
- e. Member Kass read the other changes that were made on page 1.
- f. On page 2, Member Ring opined that disposition 5 sounds like a "fishing expedition." Chair Fine explained the usefulness of the disposition and Director Harness added that the definition is straight out of the settlement agreement. Investigators also don't go out of their way to find new charges. Member Ring agreed it did not need to be changed.
- g. Member Armijo appreciated the layout of separating the dispositions on page 2.
- h. Chair Fine worried the description of types of administratively closed cases makes it appear that those are the only reasons that

- cases are administratively closed. Director Harness replied that those are the definitions they were given and cannot change them.
- i. On page 3, Member Armijo had a question about the mediation definition. Member Kass said that it is a given definition and unless it pertains to the POB or CPOA it is better to leave that language be.
 - j. Member Kass read the changes on page 4.
 - k. Member Brown noted that for the change on page 4, the phrase “independent investigations” is added in order to help the CPOA get raw data.
 - l. Member Kass summarized item 10 on page 6. Member Kass stated again that they are formalizing what is in the ordinance by putting it in the SOP.
 - m. On page 7, Chair Fine asked about the third paragraph and asked if there is ever a case where there are no findings. Director Harness said this is not a problem; all investigations lead to findings. Member Cruz suggested striking out the words “with findings.”
 - n. Member Kass read the changes made on page 11.
 - o. Member Kass read the changes made on page 12.
 - p. Chair Fine clarified that they are asking for the raw data and the conclusions. Member Kass replied that the primary interest is in raw data in a properly compiled form.
 - q. Member Cruz thought the format of the numbering is off in the end of the document.
 - r. Member Ring noted that in section a. item vii of page 12, the commas are unnecessary.
3. **Voting.** Vice-chair St. John made a motion to accept to SOP 3-41 with the changes that were mentioned. Member Brown seconded the motion. The motion was carried by the following vote:
For: 9 –Armijo, Brown, Cruz, Fine, Galloway, Kass, Ring, St. John, Waites
4. **Moving Forward.** Member Kass noted that Adam Paul Garcia, the OPA liaison, asked when the POB would have something for him and that now they can send 3-41 to the OPA. Director Harness reminded the board that ordinance states it must be submitted to the chief for acceptance, meaning the chief will have 45 days to decide if the department will adopt it.
5. Chair Fine asked if it could also be sent to the OPA, and Member Kass replied that sharing it with the OPA is up to the chief but that Member Kass will keep the OPA liaison informed.

6. Member Kass stated the Policy and Procedure Subcommittee will next meet on January 18, 2018 and he proposed that in the next meeting they review and discuss in detail 3-44 and 3-4. Member Kass then described those two SOPs and their relevance.
7. **POB Academy.** Chair Fine noted Commander Collins's presence at the meeting and asked him to update the board about the academy.
8. Commander Jimmy Collins introduced himself as the commander of the APD Academy. In an effort to trim down the POB academy, Commander Collins said, they have come up with 9 sessions. Commander Collins listed the topics they would cover in the sessions, noting that sessions about policies that are currently under revision, such as the Use of Force Policy, will be pushed back to the end of the academy.
9. Chair Fine suggested that all the board members, not just the new members, should attend the new Use of Force training. Commander Collins agreed and added that they may ask board members to come in for training updates. Commander Collins also asked that board members who attend the academy provide feedback on how the academy curriculum helped them do their POB work.
10. **Academy Schedule.** Commander Collins explained that there were 27 training hours that they would split into nine weeks with one session per week. The sessions would all take place on weekdays after hours.
11. Member Brown noted her appreciation for them no longer requiring 72 hours of training. She also asked if communications was part of the curriculum and Commander Collins confirmed that communications would be covered in a session.
12. Member Ring noted that the part of the training that impressed him most was seeing the Real-Time Crime Center. Commander Collins replied that he thought he would be able to set up a visit for them.
13. **OPA Meeting.** Member Kass explained that most of the last OPA meeting was spent discussing the issue of CYFD to APD handoffs. CYFD Sergeant Evans presented and then Skotchdopole presented his findings about the failings of SOP 2-92. Member Kass suggested it is a multifaceted problem that has to do with resource allocation and the perceived breakdown in communication between APD and CYFD.
14. Chair Fine asked if the problems with CYFD will continue to be discussed and Kass replied that nothing has been resolved yet. Member Kass added that writing an SOP to fix communication will only help so much when they do not have enough resources to address the problems they find.

15. Chair Fine suggested that, as community members, the board is in a great position to let the community know what is going on and what is needed.
 16. **Policy on Policy.** Member Kass mentioned again that APD's policy on policy is being rewritten. Member Kass asked Attorney Schemhl for an update.
 17. Mr. Schmehl announced that within about a week he will be able to present a draft of the process flow and after that they can come up with policy language that supports that process flow. The new policy is characterized by a condensed process timeline and by community input. Week after next, Mr. Schmehl will pull in the POB, MHRAC, APD Forward, and other bodies to provide their input on the policy and make sure that at the end there is a review by the POB.
 18. **Data Collection.** Member Brown asked Mr. Schmehl if they have been discussing whether data collection will be part of the policy on policies. Mr. Schmehl replied that they absolutely need talk about that with people like Member Brown and Ms. Verploegh, noting that data is also useful because when you set a baseline and then track it over time you are able to see the effects of reform.
 19. Member Brown added that it doesn't have to be perfect but data collection is important enough that it needs to be in the policy. Mr. Schmehl clarified that he wants to put data collection in the policy but needs help because he doesn't know what it would look like. Mr. Schmehl acknowledged putting language in the policy that reflects the importance of that data for policy development and reflects the reform effort is a good idea.
 20. Chair Fine agreed and concluded that in all policy you have to define what winning looks like and find some way to measure the winning.
- e) **Case Review Subcommittee – Leonard Waites.** For more information regarding POB Case Review Subcommittee meetings, agendas and minutes, please refer to the website located here: <http://www.cabq.gov/cpoa/subcommittees/case-review-committee-crc>. Member Waites gave a report on behalf of the Case Review Subcommittee, which met on January 2 and 8, 2018, as follows:
1. **Cases.** Member Waites reported that in the last Case Review Subcommittee meeting they reviewed the cases that were voted on tonight. They also discussed the case review process and the difficulty of reviewing the Serious Use of Force cases. Member Waites added that they had to reconvene on January 8, 2018 to talk specifically about the Serious Use of Force cases.
 2. **Appeals.** There were no appeals.

3. **Next Meeting.** The Case Review Subcommittee will meet next on Friday, February 2, 2018 at 10:00 a.m.

f) **Personnel Subcommittee – Eric Cruz.** For more information regarding POB Personnel Subcommittee meetings, agendas and minutes, please refer to the website located here: <http://www.cabq.gov/cpoa/police-oversight-board-subcommittee-meetings/personnel-committee>. Member Cruz gave a report on behalf of the Case Review Subcommittee, which last met on December 5, 2017, as follows:

1. **Contract Update.** Member Cruz was expecting a call from Pasty Pino in the City's financial office last month but never received it. He has been trying to follow up via email and phone and has received no feedback.
2. Chair Fine suggested they get help from someone with the City to sort out their HR issues. Ms. Helen Maestas volunteered to help if the board gave her the details. Chair Fine explained the situation and thanked Ms. Maestas for her help.

XI. Reports from City Staff

a) **APD – Lieutenant Jennifer Garcia** gave the following report for APD:

1. **Statistical Data.** Lt. Garcia read the Statistical Data for the month of December 2017. A document titled *Police Oversight Board, APD Internal Affairs: Statistical Data for the Month of December 2017* was distributed to the POB members. See attachment "B."
2. **File Organization.** APD has started to change their process of how they organize the files in their system. CIRT has already started to reorganize their files and though new files will be organized it will take time to reorganize existing files. IA is focusing on organizing their files in the same way the CIRT team is.
3. **Timeline and details.** Chair Fine asked Lt. Garcia for a timeline regarding file reorganization. Lt. Garcia responded that they are already working on it and added that they are considering implementing a checklist to keep everyone consistent. There will be an IA training on this process next Wednesday.
4. **Questions.** Member Brown had previously talked to Lt. Garcia about substance abuse testing for officers involved in vehicle crashes and asked how that process works. Lt. Garcia explained that the results of those tests go to the City and then to Jonathan Bender, who then contacts the department's HR and Lt. Garcia in IA if there are concerns. Lt. Garcia added that Operations Review reviews every crash and that in the new system all crashes automatically end up in IAPro.

5. **Crash Data.** Chair Fine invited T.J. Wilham, Director of the Real Time Crime Center (RTCC), to give a report about Crash Data.
 - a. **Real Time System.** Mr. Wilham announced that the RTCC is working with IA and Operations Review to develop a system which would allow board members to click on a link and see the current crash status in real time. This is part of APD's shift from paper reports to more advanced data collection and processing methods.
 - b. **Report Additions.** The reports will start to collect the age of the officer and the year of the academy, new demographics that will help APD look for trends and determine best practices.
 - c. Once the new system is in place, the Real Time Crime Center will issue a report every quarter which will always be available to the board.
 - d. **Trend Analysis Board.** Mr. Wilham added that he is working with Deputy Chief Garcia to form a trend analysis board that will look at crash data. The analysis board will be separate from the discipline board and from the crash review board. The trend analysis board will determine if there are any issues with equipment, vehicles, training, road conditions, etc. that cause the accidents.
 - e. Mr. Wilham promised to keep the board updated as the system is developed.

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

1. **New Members.** The selection committee from the City Council office has selected two candidates to fill the vacancies that will be left by board members Brown and Ring. The recommendations for the new candidates will be introduced at the next City Council meeting on Wednesday and then be heard for final action at the February 5 City Council meeting.
2. **Reappointments.** At the upcoming City Council meeting on Wednesday, the reappointments of POB members Waites and Armijo will be on the agenda for final action.
3. **0-17-55.** 0-17-55—the legislation to prohibit elected officials, departments, boards, commissions, and advisory groups from hosting political forums—will be on the Council agenda as well.

c) **Mayor's Office** – Helen Maestas gave the following report for the Mayor's Office:

1. Helen Maestas introduced herself and reported that it is important to the Mayor's Office to recognize the great work that the POB is doing and promised someone from the Mayor's Office will attend all of the POB meetings in the upcoming months.

2. Chair Fine thanked her for being here, noting it had been several years since someone from the Mayor's Office had attended a POB meeting.
- d) **City Attorney – Jeramy Schmehl** gave the following report:
1. **Retreat.** Mr. Schmehl talked about the retreat on December 19 and 20 and explained the purpose of the retreat was to introduce the new administration. The retreat laid a solid foundation for the CITE visit which will take place next week.
 2. **CITE Meetings.** The purpose of the meetings will be different from past meetings, which were for capturing data and discussing forthcoming reports. This CITE visit will focus on technical assistance and relationship-building. It will be an opportunity for stakeholders to ask questions, to dive deeper into the issues that are acting as impediments to compliance, and to have conversations that move reform forward.
 3. **Mediation.** The attorney from the government is still working on getting a mediation process for less severe complaints set up.
 4. **Use of Force Reform**
 - a. Mr. Schmehl described the current system of having two categories of force and how those categories are investigated, noting that the system as it stands is bogging down the chain of command and causing a backlog. The proposed solution to that is to have the definitions of force broken into three levels:
 - b. **Level 1 Use of Force.** The first level would include actions that are only expected to cause transitory pain. To investigate a Level 1, a supervisor would go out to the scene, review the lapel, confirm that it is a low level use of force, and then do a brief investigation which would then be deposited into IAPro for data collection. This will be much more efficient once in place but it will require a policy change with 2-52 and 2-54.
 - c. **Level 2 Use of Force.** The second level will refer to what are currently called serious uses of force. In the new approach, the sergeant would go out to the scene and complete the first four steps of 2-52 and alert a member from the force review team. The investigator—who is from a different unit—would take the initial steps of the investigation, complete the rest of the investigative steps, and write the product. The investigation would then make its way through a chain that is separate from the chain of command. There would also be an audit function at the end.
 - d. **Level 3 Use of Force.** Level 3s would be investigated the same way as Level 2s but the force is more severe in Level 3. If there is a lethal use of

force, then it would be different from a typical Level 3 because lethal uses of force require officer statements and further investigation.

e. Presentation and Response. Mr. Schmehl stated they will present the new policy to the community and explain its advantages over the current system. Mr. Schmehl also noted that they presented the new system to the monitoring team and the DOJ and both parties were very receptive to the change. For the CITE visit, they will focus on pulling that together because it will involve modifications to the settlement agreement.

f. Questions and Comments. Member Waites asked when an officer is required to turn on their lapel camera. Mr. Schmehl answered lapel cameras must be recording before contact with a subject or civilian.

g. Chair Fine commented that the pass-off for Level 2 is attractive. She also appreciated the thoughtfulness of adding a third level of force so that the more minor ones can be dealt with efficiently.

h. Misconduct. Mr. Schmehl added that, parallel to this investigation of use of force, there could be a misconduct investigation; the first investigator would also flag any potential misconduct and get that to the supervisor. At that point, depending on the severity, it would either go to the chain of command or it would go to IA if it was more severe.

i. Other Feedback. Member Brown asked Mr. Schmehl if they would address the wordiness in 2-52.

j. Mr. Schmehl's reply was that the wordiness is a consideration. He then compared the policy to that of Seattle and Cleveland in terms of length.

k. Member Kass noted that the length of the policy is a subject that comes up with officers a lot, as he learned on his last few ride-alongs, thus Dr. Brown's complaint is important to address.

5. **SOP 3-52.** Mr. Schmehl noted 3-52 is currently their first priority because it is needed to revise the Use of Force policy.

6. **Compliance Plan.** Mr. Schmehl assured the board that they have been working on the compliance plan, taking sufficient time (as suggested by the attorneys from the US government) because the plan is the bedrock for everything.

7. **Backlog.** Mr. Schmehl explained that cases in an in-chain backlog are cases that have not yet been completed and put into IAPro. Mr. Schmehl hopes that officers will be provided with a template or report form that is more structured and therefore easier to fill out and to review, which should help limit future backlogs.

e) **CPC Manager.** Chair Fine introduced Chris Sylvan, the new CPC Manager, and invited him to speak.

1. Mr. Sylvan told the board that he is looking forward to the challenges of his job. He invited board members to contact him with any questions they may have.
 2. Chair Fine expressed her happiness that the new position of CPC manager exists and thanked him for taking the position. Chair Fine also invited Mr. Sylvan to attend any and all of the board's meetings. Mr. Sylvan told her he will be at every meeting he can.
 3. Chair Fine added that she would like to see CPC members come as well. Mr. Sylvan agreed and told her that is a good idea.
- f) **CPOA** – Director Harness gave the following report for the CPOA:
1. **Job Well Done Reports and CPOA Complaints.** In the month of December 2017 the CPOA received the following:
 - a. Job Well Done reports: 9
 - b. New complaints: 31
 - c. 311 Complaints: 9
 2. **Mediation Program.** Attorney Martinez from the DOJ pledged the pleadings to enact the mediation program would be filed with the court sometime next week. The attorneys from the DOJ are drafting those pleadings in order to get the court to rule on the motion to set aside some of the definitions in the memorandum of understanding.
 3. **CPC Summit.** Next week the CPOA is hosting a CPC summit with Mr. Sylvan and the monitoring team's Dr. Rickman. It will be at the US Attorney's office at 6:00 p.m. on Wednesday, January 17. We are only hosting CPC voting members—it is not going to be open to the public—and there is room for two more POB members to attend.
 4. **Meeting with Mr. Giaquinto.** The meeting with Mr. Giaquinto from the monitoring team is set for January 17 at 3:00 p.m. on the fourth floor in the police department's building. Board members Galloway, Dr. Kass, St. John, and Fine will be in attendance so no more board members can attend.
 5. **Monitoring Team Schedule.** Ms. Martinez does not believe they will be able to fit in another meeting with the full monitoring team and the DOJ for stakeholders because the monitoring team is only visiting for one week instead of two. Director Harness reminded the board that he sent them the timeline for the monitors' meetings.
 6. **Ride-along Forms.** The ride-along form is in SharePoint. Board members should download the form and take it with them to have it signed. To set up a ride-along, members can work directly through an area command, contact Commander Collins, or use the APD organizational chart to reach out to any area commander.

7. **Board Elections.** By ordinance, Chair Fine will step down soon and it is time for board elections. Chair Fine added that they need to elect a new chair in February's meeting.
8. **Data Analyst Contract.** The issue of the contract for a data analyst has been turned over to attorneys Baker and Jackson. Director Harness talked to Attorney Jackson last week and Mr. Baker and Mr. Jackson are going to meet with the city attorney and get that worked out.
9. **Meeting with Chief Geier.** Director Harness met with Chief Geier on January 10, 2018.
 - a. Director Harness explained the role of CPOA and POB in contrast to what used to be in place, the POC and the IRO.
 - b. **311.** The 311 call are going to be rerouted. Chief Geier agreed it makes no sense for 311 calls to come to the CPOA when they should go directly to area commands.
 - c. **Evidence Access.** Chief Geier assured Director Harness that the CPOA and POB would be getting the access they need to evidence.com. They will be able to search and find videos without needing to request them, tag videos for preservation, and download them. The FIT Team had the same issue in Chief Geier's own department so the CPOA wasn't singled out.
 - d. Chair Fine asked, to clarify, if the CPOA could tag something so that it would not be deleted and Director Harness answered in the affirmative.

**XII. Meeting with Counsel re: Pending Litigation or Personnel Issues:
Closed Discussion and Possible Action Re.: Pending Litigation or Personnel Issues**

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

XIII. Other Business

- a) **Thank You.** Director Harness thanked Dr. Ring and Dr. Brown for their service.
- b) Chair Fine added that they are all supremely grateful to Dr. Ring and Dr. Brown for their long service, energy, and expertise.
- c) Dr. Ring gave the advice to "keep on pushing."
- d) Member Brown bid the board farewell and gave some advice:
 1. Member Brown stated that it was a pleasure to serve on the board. She is also glad that some of her favorite topics are still being talked about, including raw data, the ordinance, policy on policies, and editing SOPs so

that they are understandable for the officers. Dr. Brown also hoped that the board would keep working on the promotion policy because it has been left unfinished business.

2. Member Brown thanked the CPOA staff for being so professional and wonderful.

3. Member Brown recalled her experiences with ride-alongs and how she found the officers to be very dedicated and competent. Member Brown related an anecdote about a well-liked officer and she expressed her hopes that the board will push toward the goal of having that sort of community policing with more officers on the streets and in the community.

e) **Ordinance.** Member Kass recalled the conversation the board had had about contacting City Council members with regard to changes to the ordinance. Member Kass does not know at this point where this stands but the board needs to work with Mr. Moya.

1. Chair Fine thanked Member Kass for reminding the board about it.

2. Vice-chair St. John asked for clarification. Chair Fine restated that the board did send a letter requesting changes to the ordinance but the board doesn't know where it is at this point.

3. Director Harness informed the board that the ordinance letter has been drafted and the changes have been made.

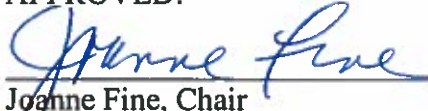
4. Mr. Moya stated that they received the ordinance changes and took them to a city councilor but they need to get that process restarted. They will set up a meeting with a city councilor or multiple councilors and Chris Melendrez.

5. Chair Fine asked for a timeline and Mr. Moya replied that he thinks they will have an update on that by the next POB meeting.

XIV. Adjournment – A motion was made by Member Brown to adjourn the meeting. Member Ring seconded the motion. The motion was carried by the following vote:
For: 9 –Armijo, Brown, Cruz, Fine, Galloway, Kass, Ring, St. John, Waites
The meeting adjourned at 8:20 p.m.

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

APPROVED:



Joanne Fine, Chair
Civilian Police Oversight Agency

2/9/2018

Date

CC: Julian Moya, City Council Staff
Trina Gurule, Interim City Clerk
Isaac Benton, City Council President (via email)

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

Attachments

ALBUQUERQUE POLICE DEPARTMENT ADMINISTRATIVE ORDERS

SOP 3-41 Effective: 06/02/16 Review Due: 11/29/16 Replaces: 05/05/16

3-41 COMPLAINTS INVOLVING DEPARTMENT ~~POLICY OR~~ PERSONNEL

3-41-1 Purpose

The purpose of this policy is **two fold: 1) to inform all employees and the public of procedures for accepting, processing, and investigating allegations of employee misconduct and 2) to collect data on the effect policies are having on the public and/or personnel**. The definitions, procedures, and rules outlined below are intended to provide guidance, clarity, and define responsibilities for the investigation of complaints. For additional information on Internal Affairs procedures, refer to the Internal Affairs Division (IAD) SOP.

3-41-2 Policy

The Department will ensure that all complaints concerning employee misconduct, policies, procedures, and tactics are thoroughly investigated. The Department will accept and fairly, impartially, and openly investigate all complaints of employee conduct to determine the validity of allegations and to impose any disciplinary actions that may be justified in a timely and consistent manner, **and to recommend changes in policy as appropriate**.

3-41-3 Definitions

A. Apparent Criminal Misconduct

Apparent criminal misconduct is an act or omission that violates United States or New Mexico State criminal codes, with the exception of minor traffic violations. Minor traffic violations are defined as violations of NMSA Section 66-7-1 et seq. except, Driving While Intoxicated (DWI), Reckless Driving, Leaving the Scene of an Accident, and Vehicular Homicide. Parking violations are not apparent criminal misconduct.

B. Complaint

A report of an act or omission allegedly committed by Department personnel that constitutes a violation of Department policies, rules, or procedures, an alleged violation of local, state, or federal law, or an allegation that Department policies, procedures, and/or rules are deficient, defective in implementation or unconstitutional in practice. There are two types of complaints, civilian police complaints and internal complaints.

C. Civilian Police Complaints (CPCs)

1. Civilian police complaints are complaints originating externally from non-Department personnel.
2. All civilian complaints are forwarded to the Civilian Police Oversight Agency (CPOA) for investigation. **The CPOA will investigate civilian complaints unless apparent criminal misconduct is identified by the CPOA. If the complaint contains allegation of a criminal nature the case shall be**

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transferred to IAD. The Chief shall consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation.

3. Complaints indicating apparent criminal misconduct will be administratively investigated by IAD.
4. Civilian police complaints are assigned CPC numbers. The format is CPC, year, hyphenated unique six-digit number, for example, CPC16-123456.
5. CPOA policy and procedures are not governed by the Department; however, they follow the City Ordinance Section 9-4-1 et seq., Albuquerque Police Officers' Association Collective Bargaining Agreement (APOA CBA), and Department policy.
6. Civilian Police complaints may be resolved through mediation, **referral to the Area Command**, or investigation.
7. The Department will track allegations regarding misconduct involving civilians who are homeless and/or have behavioral health issues, mental illness or **developmentally delayed**, whether or not these **conditions are** related to a complaint.
8. The information relating to alleged misconduct is obtained from the GPC form and tracked through the software programs IPro/BlueTeam.

D. Civilian 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 (POB) and an Administrative Office led by the CPOA Executive Director. The CPOA serves as the administrative office and investigative unit of the POB.

E. Dispositions

The investigator will identify every applicable SOP section relevant to the issue raised in the complaint (issues of concern) during an investigation of misconduct and recommend one of the following dispositions for each allegation of misconduct in an administrative investigation.

1. Unfounded
"Unfounded," where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject employee.
2. Sustained
"Sustained," where the investigation determines, by a preponderance of the evidence, that the alleged misconduct did occur.
3. Not Sustained
"Not Sustained," where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred.
4. Exonerated
"Exonerated," where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training.
5. Sustained Violation Not Based on Original Complaint
"Sustained violation not based on original complaint," where the investigation determines, by a preponderance of the evidence, that misconduct did occur that was not alleged in the original complaint but that was discovered during the misconduct investigation.
6. Administratively Closed

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“Administratively closed,” where the policy violations are minor, the allegations are duplicative, or investigation cannot be conducted because of the lack of information in the complaint.

F. Formal Investigation

A continuation of the preliminary investigation. In a formal investigation, the assigned investigator(s) will conduct and document formal interviews with fact witnesses, identify, collect and evaluate applicable evidence including written and other tangible materials, and compile the investigator’s findings into a written report that includes a narrative, summary of the evidence, and dispositions.

G. IAD

Acronym for Internal Affairs Division.

H. IAS

Acronym for Internal Affairs Section. IAS is a section within IAD.

I. Internal Complaints

Internal complaints are complaints made by APD personnel alleging misconduct by another employee. An Internal Complaint (“I number”) is assigned to internal investigations. The format for the internal complaint is a capital “I” followed by the last two numbers of the year then a hyphenated unique six-digit number, for example, I09 123456

J. Investigator

Any Department employee (IAD or Chain of Command), CPOA employee, or contracted external investigator charged with conducting an administrative investigation of either a CPC or internal investigation.

K. Mediation

Mediation is the process of resolving a conflict through discussion, negotiation and compromise, without formal investigation or fact-finding. Mediation is appropriate when a complaint does not present misconduct, but instead indicates interpersonal conflict or a civilian’s misunderstanding of department policy and procedures.

L. Misconduct

A violation of departmental policies or procedures; violation of federal, state, or local criminal laws; constitutional violations, whether criminal or civil; violation of personnel rules, or violation of administrative rules or regulations.

M. Preliminary Investigation

The initial inquiry into the nature of the complaint, the direction the investigation should take, and the identification of the resources needed to complete the investigation. A preliminary investigation shall be

fully conducted to determine whether the complaint should be formally investigated by the chain of command, IAD, or may be resolved through mediation, or administratively closed. A CPC is forwarded to the CPOA without an IAD/APD preliminary investigation. The CPOA may conduct a preliminary investigation on a CPC.

N. 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 APD personnel, and analyzing Department policies and making recommendations for improvement to those policies.

3-41-4 Procedures

A. Anti-retaliation Policy

1. Department personnel are required to report misconduct and to encourage members of the public to report misconduct in accordance with this policy.
2. Discouraging either Department personnel or members of the public from reporting misconduct is prohibited.
3. Department personnel may not take any intentional adverse action against any individual or group (including both Department personnel and members of the public), in response to that individual or group:
 - a. making or supporting a complaint; or
 - b. testifying, assisting, or participating in any manner with an investigation.
4. Retaliation includes, but is not limited to, threats, intimidation, coercion, or other adverse action against any person in the workplace or community.
5. Retaliation against personnel who report misconduct or who cooperate with an investigation of misconduct is grounds for discipline, up to and including termination of employment.

B. Civilian Police Complaint (CPC) – Process

1. Resources

All Department personnel will familiarize themselves with the resources available to assist civilians with their complaints against the department and/or its personnel. The resources are:

- a. The CPOA phone number is (505)924-3770.
 - b. The CPOA website is <https://www.cabq.gov/cpoa>.
 - c. The CPOA email address is cpoa@cabq.gov
 - d. CPC forms and brochures in English and Spanish are located at all APD substations, libraries, IAD, community centers, APD headquarters, and the CPOA office.
 - e. All officers in marked police vehicles will carry CPC forms in English and Spanish. Officers will provide the CPC form to anyone who indicates that they are making a complaint or would like to make a complaint regarding Department personnel or policy.
 - f. Civilian complaints can be entered into BlueTeam software without needing the CPC form.
- ##### **2. Department Personnel Treatment of Complainants**
- a. Department personnel will professionally and courteously assist any civilian wishing to file a complaint.
 - b. All civilian complaints will be accepted.

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- c. Department personnel will notify a supervisor when a complaint is tendered.
 - d. Department personnel will not discourage, intentionally misinform, or interfere with a civilian wishing to file a complaint.
3. Telephone and In-Person Complaints at an APD Facility
- a. When a member of the public makes a complaint at an APD facility, either in person or telephonically, the APD employee contacted by the individual will notify a supervisor, who will assume the complaint intake process, and speak with the complainant.
 - b. If a supervisor is unavailable, the APD employee will advise the civilian of the resources available for initiating an investigation into their complaint and, at the individual's option, assist them in completing a CPC form with as much detail as possible.
 - c. The APD employee will turn the CPC form over to a supervisor before the end of the employee's shift for routing to IAD.
4. In-Person Complaints in the Field
- a. When a civilian contacts an APD employee in person wishing to file a complaint at a location that is not an APD facility, the APD employee will advise the civilian about the resources available for initiating a complaint, provide forms if the employee is near the employee's marked APD vehicle, and offer to contact a supervisor to come out and assist the complainant with filing a complaint.
 - b. The civilian has the choice of using the resources provided, or speaking with a supervisor.
 - c. The employee will notify a supervisor of interest in making a complaint even if the individual elects not to have a supervisor come out.
5. Written Complaints
- a. Complaints received by mail, electronic mail, or facsimile will be promptly forwarded to a supervisor by the employee receiving the communication.
 - b. The supervisor will forward the complaint to IAD.
6. Complaints Related to a Judicial Proceeding
- a. The IAD commander, at the direction of the Chief of Police, will annually notify the Chief Judges from the Second Judicial District and Metro Court and the District Attorney's and Public Defender's Offices of the complaint process.
 - b. Complaints received from any of these entities will be handled as a complaint from a civilian, directed to a supervisor for intake and routing to IA, and forwarded to CPOA within three business days for investigation.
 - c. If complaints relating to a judicial proceeding are made by an APD employee or an employee of the City Attorney's office, they will be investigated as internal complaints.
7. Third Party or Anonymous Complaints
- a. A person is allowed to file a complaint on behalf of another individual.
 - b. A person is allowed to file a complaint even when the person had no direct involvement or physical contact in the incident the civilian is complaining about.
 - c. A person is also allowed to file a complaint anonymously.
 - d. These types of complaints will be investigated in the same manner as any other complaint.

8. Employees' Responsibilities for Civilian Complaints
- Employees operating marked patrol vehicles will carry CPC forms in English and Spanish in their patrol vehicles, or if so equipped will print them on demand.
 - Employees will provide their name and identification number when requested by a civilian.
 - Employees will immediately notify a supervisor when a civilian requests a CPC form and immediately notify a supervisor when a civilian desires to make a complaint.
 - Employees will fully cooperate with all civilian complaint investigations to include, truthfully answering all questions, providing requested City owned items/documents under their control, and reporting for interviews on time.
9. Supervisor Duties for Civilian Complaints
- For all complaints, supervisors will ensure that the CPC form is filled out as thoroughly as possible and hand delivered to IAD by the end of the shift following the shift in which the misconduct complaint was received.
 - The supervisor will keep custody of all paperwork should the complaint occur during a holiday, weekend, or non-business hours, then ensure the complaint is delivered to IAD at the beginning of the first business day.
 - If a supervisor is notified of a complaint about an allegation of misconduct that just occurred (i.e. the officer is still on the call or has just left the call or incident), the supervisor will take additional investigatory steps such as interviewing the complainant, gathering any relevant evidence (including tagging any relevant video for retention), identifying all potential witnesses, and identifying the employee(s) involved.
 - A supervisor may use BlueTeam software in-lieu of a CPC form for entering a complaint. The supervisor will still forward all supplemental documentation and evidence to IAD by the end of the shift following the shift in which the misconduct complaint was received.
 - A supervisor will immediately inform the chain of command and IAD when a supervisor is notified of an allegation of apparent criminal misconduct by a Department employee. The supervisor will still forward the complaint to IAD.
 - Supervisors will respond to the scene when they are notified that a citizen has requested them. Employees will request their immediate supervisor to respond; however, when their immediate supervisor is unavailable any other supervisor will suffice.
10. IAD Responsibilities for Civilian Complaints
- Ensure that all CPCs received are entered into IAD and **provided** to the CPOA no later than three days from **receipt** of the complaint.
 - Confirm that any video related to the complaint is classified for retention.
 - APD shall provide POB members, the Director, and CPOA staff with reasonable access to APD premises, files, documents, reports and other materials that are reasonably necessary for the agency to perform thorough, independent investigations of civilian complaints and reviews of serious uses of force and officer-involved shootings.**

C. Apparent Criminal Misconduct – Process

- If IAD believes that a CPC indicates apparent criminal misconduct, they will notify the chain of command, but will still forward the complaint to CPOA.
 - IAD will consult with CPOA regarding the issue.

- b. CPOA will transfer the case to IAD if the CPOA investigator concurs that there is an indication of apparent criminal misconduct.
- 2. If at any time during the intake process or investigation of misconduct complaint intake or investigation the investigator determines that there may have been criminal conduct by any employee, the investigator shall immediately notify the commanding officer of IAD.
 - a. If the complaint is being investigated by the CPOA, the CPOA investigator will transfer the administrative investigation to IAD.
 - b. The commander of IAD shall immediately notify the Chief.
 - c. **The Chief shall consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation.**
- 3. For all cases indicating apparent criminal misconduct, IAD will assume administrative case responsibility and will ensure the proper criminal investigative unit or agency is notified to evaluate the case for a criminal investigation. **Upon completion of the investigation with findings the case will be forwarded to CPOA for review.**

D. Internal Department Complaints – Reporting and Assignment

- 1. All officers and employees must report misconduct known to them by any Department officer or employee, including themselves, to a supervisor or directly to IAD for review and investigation.
- 2. When alleged misconduct is reported to a supervisor, the supervisor will immediately document the conduct and report this information to the IAD.
- 3. Failure to report or document alleged misconduct or criminal behavior will be grounds for discipline, up to and including termination of employment.
- 4. Any supervisor receiving an internal complaint (other than misconduct) will obtain sufficient information to assess the seriousness of the complaint and will determine if a non-disciplinary correction can be reached before initiating an investigation or referring the complaint to IAD.
 - a. Non-disciplinary corrections may be pursued for minor internal complaints such as personal conflicts, attitude complaints, minor social media violations, appearance, employee-supervisor conflict, or tobacco use.
 - b. Supervisors will contact the IAD lieutenant for questions concerning whether an internal complaint will be handled through non-disciplinary correction or formal investigation.
- 5. All internal department complaints will be investigated by an IAD investigator, a designated supervisor outside of IAD, or a contract investigator. The CPOA will not investigate internal complaints; however, the CPOA will audit and monitor all IAD investigations **or investigations by other APD personnel tasked with conducting administrative investigations related to a use of force incident,**
- 6. An internal complaint involving minor misconduct such as reporting for duty late or unprepared, missed court, or leave abuse, will normally be investigated by the chain of command.
 - a. An internal complaint requiring the interviews of multiple witnesses, multiple employees from various assignments, or extensive documentation retrieval, will be investigated by IAD.
 - b. The IAD lieutenant will determine if a case is to be investigated by IAD or the affected chain of command.
 - c. If the chain of command disagrees with the assignment, he/she may appeal to the Chief of Police.
- 7. Internal complaints against IAD, the Critical Incident Response Team (CIRT) or personnel assigned to IAS or CIRT will be investigated by a designee of the Chief of Police.

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8. An internal complaint investigation shall not be conducted by any supervisor who has a direct interest in the case, e.g., if the supervisor was involved in the incident, use of force, or other actions that are the subject of the complaint, if the supervisor authorized actions that are the subject of the complaint, or if the supervisor is a witness to the incident that is the subject of the complaint.

9. An investigator will notify IAD as soon as he/she initiates an internal investigation or on the next business day.

a. The investigator notifying IAD will provide the name of the employee who is the subject of the complaint, the allegations against the employee, date of incident, and a brief summary of the incident.

b. IAD is responsible for notifying the subject employee by certified mail of the investigation unless the notification may hinder the investigation.

10. Any investigator conducting an internal investigation will be considered a designee of the Chief of Police and the City Attorney.

E. Internal Department Complaints - Investigation Process

1. An investigator will conduct a preliminary investigation.

a. The investigator will write a memo to the IAD lieutenant when the preliminary investigation determines there is no need for a formal investigation. The memo to the lieutenant will detail the facts of the case and why those facts do not warrant a formal investigation, i.e. where the case has been referred to mediation, should be administratively closed, or in rare circumstances where the preliminary investigation is sufficient to make another case deposition.

b. The IAD lieutenant will make the final decision on whether a formal investigation will or will not proceed.

c. If additional information becomes available, the IAD lieutenant may reopen a case and order a formal investigation.

2. Internal complaint investigations will be completed in 90-days from the beginning of the formal investigation when an I number is assigned, not from the date of the incident.

a. The 90-day period will not include review of the investigation by the chain of command.

b. An extension of the investigation of up to 30-days may be granted, but only if the request for an extension is in writing and is approved by the Chief of Police.

c. Review and final approval of the investigation, and the determination and imposition of the appropriate discipline, will be completed within 30 days of the completion of the investigation.

d. An extension may be granted in extenuating circumstances, such as military deployments, officer hospitalizations, and extended absences, upon agreement by the Chief of Police or his designee and the employee or his/her representative.

3. The following guidelines should be followed when the preliminary investigation indicates a formal investigation is necessary.

a. The investigator will be familiar with the most current applicable collective bargaining agreement before interviewing employees.

b. If a criminal investigation is being or may be conducted, employees shall not be compelled to provide a statement and will not be provided the Garrity warning until after consultation with the relevant prosecuting agency.

c. As a condition of employment, all employees must truthfully answer questions and cooperate with administrative investigations.

d. The formal investigation will include:

- i. Identification of the policies alleged to be violated (issues of concern).
 - ii. Identification of the employee(s) alleged to have violated policy.
 - iii. Identification of all potential witnesses to the alleged policy violations.
 - iv. Identification of all relevant documentation that will be required to prove or disprove the allegation.
 - v. Identification of what further evidence is needed, for example, photographs, canvassing for potential witnesses, and/or visiting the scene to better understand the conditions. The investigator will obtain and review these additional items before conducting interviews.
 - vi. Interviewing civilian witnesses to objectively determine observations, perspectives, credibility, and physical condition at the time of the incident. The interview should be digitally recorded or a hand written statement may be obtained when circumstances prevent a digital recording. The investigator will document and thoroughly detail why a potential witness was not interviewed.
 - vii. Interviewing employee witnesses in accordance with the current applicable collective bargaining agreement to objectively determine their observations, perspectives, credibility, and physical condition at the time of the incident. All employee interviews will be digitally recorded.
 - viii. Interviewing the subject employee(s) in accordance with the current applicable collective bargaining agreement to objectively determine their actions, observations, perspectives, credibility, and physical condition at the time of the incident. If there is a concurrent criminal investigation, the administrative investigator will consult with the prosecuting agency prior to interviewing the subject employee. The subject employee may have a representative and/or attorney present for the interview.
 - ix. Reviewing collected evidence, documentation, and interviews then determining if further evidence collection, documentation retrieval, and/or interviews are necessary.
 - x. Conducting all follow up evidence collection, documentation retrieval, and/or interviews that are needed after review.
 - xi. Reviewing all known facts of the investigation and determine if collateral allegations have surfaced and need to be addressed.
- c. Repeat steps as necessary until all facts of the case are reasonably understood or no further information can be obtained.
- f. If a criminal investigation is being or may be conducted, the investigator will not share files or information with the criminal investigator. The investigator may receive information from the criminal investigator, attend briefings by the criminal investigator, and observe interrogations by the criminal investigator only through a monitor system or one-way glass.

F. Completed Internal Complaint Case

1. The completed internal complaint report will be written as follows with variations depending on the complexity/simplicity of the case. Investigators should contact IAD to obtain the cover, tabs, and forms required:
 - a. The entire report will be bound with a Smead no. R129 hard cover or similar.
 - b. Each section will have divider tabs containing letters in sequential order; however, not necessarily starting with "A." The usual order will depend on case complexity and/or content.

Attachment "A"

- c. A table of contents that identifies each tab's contents to facilitate the ease of locating information and data.
- d. An investigative synopsis containing the minimum of one paragraph, sufficient enough to provide the reader with an understanding of the issues of concern and investigation.
- e. The issues of concern citing the applicable SOP sections addressing the allegations and/or conduct.
- f. The Supervisor Recommendation Form for supervisory comments and recommendations.
- g. The investigation narrative will contain a detailed description of the evidence and why it is pertinent to the case. Interviews will be paraphrased in sufficient depth to provide the reader with all the known facts of the case. The narrative should enable the reader to make reasonable determinations and supported conclusions.
- h. The investigator will describe determinations made regarding inconsistencies between witness statements and credibility. To make these determinations, the investigator may rely on general indicators of credibility, such as witness demeanor, consistency of memory, evasiveness of responses, motive to falsify, and inherent implausibility of statements. However, the investigator will not give an automatic preference for an officer's statement over a non-officer's statement, nor will the investigator disregard a witness's statement merely because the witness has some connection to the complainant or because of any criminal history or any concern regarding mental illness. The investigator may consider convictions for crimes of dishonesty of any witness and the record of the subject officer for deception or untruthfulness in any other proceedings or investigations.
- i. Supporting documentation will be individually tabbed records, reports, memoranda, etc. pertinent to the case. Any documentation referenced in the narrative will be included when possible.
- j. Pertinent photographs, if any that accurately represent their content will be included; the location of photographs, if not included will be disclosed should the need to review them arise.
- k. Digital recordings of interviews will be included to allow the reviewer to ascertain exact language, tone, and content of the interviews.
- l. Any and all other items pertinent to the investigation will be included when possible, or at the minimum, their location should be documented for retrieval and/or review when applicable.
- m. The disciplinary history of subject personnel involved in the investigation.
- n. The investigator will include dispositions to each policy violation alleged (issue of concern), including collateral conduct. The dispositions will include justification, based on the facts of the case, for the disposition based on a preponderance of the evidence.

- 2. An administratively-closed investigation may be reopened if additional information becomes available. All relevant deadlines will be restarted when the investigation is reopened.
- 3. If a complaint is sustained, the investigator will identify and charge the employee with applicable sections of the SOP that cover the major violation. Lesser SOP violations, that are included in the major violation, should not be considered when identifying the level of sanction.
- 4. The investigator may write a memo documenting an investigation in lieu of a full completed case as described above when a supervisor wishes to discipline an employee with either a verbal or written reprimand, for example, a single instance of missed court requiring a verbal reprimand or reporting for duty late. The investigator will obtain approval from the IAD lieutenant for anything more complex.

G. Search of Personal and APD Property

Attachment "A"

1. Department-issued property and APD facilities are subject to search at any time.
2. An investigator may reasonably, at any time, ask for and inspect any item that belongs to the Department.
3. Tangible personal property can be searched when it is brought in for an administrative inspection or when the employee is interviewed on APD or City property. Otherwise, personal property will be searched only with permission of the owner or when a valid search warrant is issued.

H. Cooperation with Investigation

1. Personnel are required to cooperate with IAD and CPOA investigations, including appearing for an interview when requested by an APD or CPOA investigator.
2. APD agrees to mandate that its officers provide honest and truthful responses to all questions by the Director, CPOA staff or the designated independent investigator. If any officer refuses to answer the questions proposed to him or her by the Director, CPOA staff, or the independent investigator, he or she may be subject to termination or disciplinary action at the discretion of the Chief of Police.
3. Department personnel are also required to provide all requested documents and evidence in the person's custody and control.
4. Investigators will ensure that the supervisor of any employee to be interviewed is notified of the pending interview.
5. The supervisor of the employee will facilitate the employee's appearance, absent extraordinary and documented circumstances.

I. Required Examinations

1. The use of any deception detection examination or technique will be in accordance with the current union contract that applies to the employee. Otherwise, such use may be allowed only by order of the Chief of Police, after all other reasonable investigative techniques were exhausted.
2. Photographs taken by employees as part of a criminal investigation may be used in an administrative investigation, as well as photographs on file with APD.
3. Employees will not be directed to participate in a line-up as part of an internal investigation. However, the results of a line-up conducted in a criminal case may be used in an internal investigation.
4. An employee is not required to disclose information regarding his or her financial status, unless all other reasonable investigative means have been exhausted or except as otherwise required by law.

J. Maintenance and Analysis of Complaint Information

1. IAD will maintain all complaint information in IAPro.
2. This information will be electronically connected to the early intervention system.
3. The CPOA will have access to this information to review specific cases and to analyze trends.
4. The CPOA will audit and monitor all IAD investigations including full access to investigation files
5. This data will be presented in the IAD annual report and may be used for other periodic audits or analyses by the Department.

3-41-5 Reporting Requirements

A. Annual Reporting

Attachment "A"

- a. Each year coinciding with this policy's review the Commander of IAD shall present to the Chief a report including but not limited to the following information:
- i. number and type of complaints received and considered, including any dispositions by the Executive Director, the agency, and the Chief;
 - ii. demographic category of complainants;
 - iii. number and type of serious force incidents received and considered, including any dispositions by the Executive Director of the CPOA, the POB, and the Chief;
 - iv. number of officer-involved shootings received and considered, including any dispositions by the Executive Director of the CPOA, the POB, and the Chief;
 - v. policy changes specific to this policy submitted by APD, including any dispositions by the Executive Director of the CPOA, the POB, and the Chief;
 - vi. policy changes recommended by IAD, including any dispositions by the Chief; and
 - vii. trends or issues with APD's, policies; or training.

B. Internal Affairs shall provide a weekly update to the Director of CPOA on all open internal investigations. This report shall contain but is not limited to the following information:

- i. Investigator assigned
- ii. Case number
- iii. Investigation open date
- iv. Employee subject of investigation
- v. Alleged violations
- vi. Findings
- vii. Discipline recommendation

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

APD 911 Communications Center
Dispatched calls for Service for DECEMBER 2017: 43532 (increase from NOVEMBER (382))

INTERNAL CASES FOR THE MONTH OF DECEMBER 2017

I's

Total Internal Cases Completed the Month of DECEMBER: 6
Comprised of:

- 6-Internal Affairs Investigations
- 0-Area Command Investigated case

Internal Cases Administratively Closed: 0

Internal Cases Mediated: 0

Discipline imposed for Internal Cases/ DECEMBER 2017:

1: Verbal Reprimand- Arrests, Booking
2: Letter of Reprimand – Arrests, Booking
1: Suspension (88 hours) – Conduct, Compliance with Rules & Regulations
1: Suspension (120 hours) -Conduct
1: Termination- Conduct

Discipline Imposed for Vehicle Crashes/OCTOBER –DECEMBER 2017:

7: No Discipline
2: Counseling
26: Verbal Reprimands
13: Letter of Reprimands
1: Suspension- (8 hour)
1: Suspension- (16 hours)

EIRS DECEMBER 2017: 32 alerts distributed

Pending IA Cases for the Month of DECEMBER 2017: 25

IA/IAC Cases opened in the month of DECEMBER 2017: 4

Attachment "B"