

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT BOARD

Thursday, March 14, 2019 – 5:00 PM
Vincent E. Griego Chambers, Basement Level
City/County Government Center – One Civic Plaza NW
Albuquerque, New Mexico

Members Present:

Leonard Waites, Chair
Chantal M. Galloway, Vice-Chair
Joanne Fine
Dr. William Kass
Valerie St. John
Chelsea Van Deventer

Members Absent:

Others Present

Edward Harness, CPOA
Katrina Sigala, CPOA
Julian Moya, City Council
Cdr. Mark Velarde, APD
Acting Cdr. Donovan Rivera, APD
Cdr. Michelle Campbell, APD
Erika Wilson, APD
Lindsay Van Meter, Asst. City Atty
Rowan Wymark, CPC
Chris Sylvan, CPC
Dorothy Woodward, CPC

Meeting Minutes

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

- I. Welcome and call to order.** Chair Waites called to order the regular meeting of the Police Oversight Board at 5:00 p.m.
- II. Pledge of Allegiance.** Chair Waites led the meeting in the Pledge of Allegiance.
- III. Mission Statement.** Chair Waites read the Police Board's mission statement.
- IV. Approval of the Agenda.**
 - a) Motion.** Motion by Member Fine to approve the agenda with the change to move item XIV. to come after item VII. Member St. John seconded the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

V. Public Comments

1. Tadeusz Niemyjski

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

a) Approval of the Minutes from February 14, 2019

1. Copies of the draft minutes from the February 14, 2019 POB meeting were distributed to each member in their packets.
2. **Motion.** A motion was made by Member Kass to approve the minutes as written. Vice-Chair Galloway second the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

VII. Reports from City Staff

a) APD – Commander Mark Velarde with Internal Affairs-Professional Standards gave the following report for APD:

1. **Statistical Data.** Commander Velarde read the Statistical Data for the month of February 2019. A document titled *Police Oversight Board, APD Internal Affairs: Statistical Data for the Month of February 2019* was distributed to the POB members. (see attached)
2. **Quarterly Report on Vehicle Crashes.** Acting Commander Rivera gave a presentation on the quarterly report of officer involved accidents. Data is dated from October 1, 2018 – January 31, 2019. Chief Geier has implemented a new vehicle evaluation tool. A document was provided titled *Crash Review Board Update* was distributed to the POB members. (see attached)
3. **2-8 On Body Recording Devices.**
 - a) Commander Campbell provided a update on 2-8 On Body Recording Devices policy and the revision to be presented to the monitor.
 - b) **Motion.** Motion by Member Van Deventer that the board recommend that a year period of time for OBRD video storage retention. Member Fine second the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

4. **Update on Crimes Against Children's Unit.** No one from CACU was present to give a report.

5. Emergency Communications on new priority system. Erika Wilson presented the new priority system for call of service with the emergency communication center for APD. She advised the board of the process and the expectations of the community when calling for service.

b) City Council Representative – Julian Moya presented his report.

c) Mayor's Office-

1. Mayor's Office Representative. – There was no one from the Mayor's Office to give a report.

d) City Attorney-

1. City Attorney – Lindsay Van Meter presented her report.

e) Community Policing Council

1. CPC Representative. Rowan Wymark, Chris Sylvan and Dorothy Woodward presented their report.

f) Albuquerque Police Officer's Association

1. There was no one from APOA present to give a report.

g) Civilian Police Oversight Agency

1. Executive Director. Edward Harness presented his report.

2. Policy recommendation on SOP 2-58 Force Review Board.

a)Director Harness presented to the board the recommendation he drafted up on 2-58 Force Review Board.

b)Motion. Motion by Vice-Chair Galloway that the board accept the language recommended by Director Harness to the policy 2-58 force review board.

Member Kass second the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

VIII. 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);

b) Limited personnel matters pursuant to NMSA 1978; Section 10-15-1(H)(2)

i.Executive Director's contract

- a) **Motion.** Motion by Member Van Deventer to take a member by member vote to move into a closed session for the limited purpose of discussing a personnel matter. Vice-Chair Galloway seconded the motion. The motion was carried by the following vote:

Roll call vote by board members.

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

**--- Meeting on Personnel issues began at 6:40 p.m. and
the meeting reconvened at 8:00 p.m. ---**

- a) **Motion.** Member Van Deventer motioned to reconvene the POB meeting into regular session and stated that the only discussion in closed session were the listed agenda items. Vice-Chair Galloway seconded the motion. The motion was carried by the following vote:

Roll call vote by board members.

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

- b) **Motion.** Motion by Vice-Chair Galloway that the Board codify the compensation of 5% increase for Director Harness discussed in the 2017 evaluation. Member Van Deventer second the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

IX. Reports from Subcommittees

a) Community Outreach Subcommittee – *Joanne Fine* -

1. Met February 26, 2019 at 1:00pm
2. Next meeting March 26, 2019 at 1:00pm

b) Policy and Procedure Review Subcommittee – *William Kass*–

1. Policy and Procedure did not meet in March.
2. Member Kass gave a report on the 2019 PPRB activity. (see attached)
3. Next meeting April 4, 2019 at 12:30pm

c) Case Review Subcommittee – *Valerie St. John* –

1. Met February 26, 2019 at 11:30am
2. Next meeting March 26, 2019 at 11:30pm

d) Personnel Subcommittee – *Chantal Galloway* -

1. Met February 22, 2019 at 9:30am
2. **Motion.** Motion by Vice-Chair Galloway to accept the evaluation tool that was proposed at the last board meeting. Second by Member St. John. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

3. Next meeting March 22, 2019 at 9:30am

X. Discussion

a) Election of New POB Chair and Vice-Chair.

1. **Chairperson Election.** Member Van Deventer nominated Chantal Galloway to be the next chairperson of the POB. Member Fine second the nomination. There were no other nominations. The motion to elect Chantal Galloway as the next chair of the board and was carried with the following vote:

For: 6 - Waites, Galloway, Fine, Kass, St. John, Van Deventer

2. **Vice-Chair.** Member St. John nominated Joanne Fine and Vice-Chair Galloway nominated Chelsea Van Deventer to be the next Vice-Chair of the POB. Chair Waites took a verbal vote. The vote was in favor of Joanne Fine for the next vice-chair of the board and was carried by the following vote:

Joanne Fine: 4 – Waites, Fine, Kass, St. John

Chelsea Van Deventer: 2 – Galloway, Van Deventer

b) 2017 Annual Report

1. Director Harness reported that he did not receive no comments or feedback from the board on the 2017 Annual Report and will submit to City Council and the Mayor's Office.

c) Oversight Ordinance Amendments CS/2 O-18-23.

1. Director Harness led the discussion on the proposed amendments by City Council.
2. **Motion.** Motion by Member Van Deventer that the board make a recommendation to reject Councilor Sanchez's proposed amendment relating to CPOA budget. Member Fine second the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

d) OMA - Foster.

1. POB Counsel Mrs. Gooch drafted a letter for the board's approval to respond to the renewed allegations of OMA violations in 2015-2016.
2. **Motion.** Motion by Member Fine to accept the letter as written by Mrs. Gooch. Second by Member Kass. The motion was carried by the following vote:

For: 5 – Waites, Galloway, Fine, Kass, St. John

Recusal: 1 – Van Deventer

e) Briefing the Court – Judge Browning. Judge Browning has been appointed to the Settle Agreement - CASA.

1. **Motion.** Motion by Member Kass that Director Harness draft a letter on behalf of the board to the court. Member Fine second the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

- XI. 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 are located at <http://www.cabq.gov/cpoa/findings-letters/civilian-complaints-pob-findings>.

a) Administratively Closed Cases

232-18	237-18	239-18	257-18	259-18
260-18	264-18	002-19	003-19	004-19
005-19	020-19	022-19	023-19	024-19
025-19	031-19	044-19	053-19	

1. **Motion.** Member St. John motioned to approve all Administratively Closed Cases presented. Vice-Chair Galloway seconded the motion and there was no discussion of any cases. The motion was carried by the following vote:

For: 5 – Waites, Galloway, Fine, Kass, St. John

Against: 1 - Van Deventer

b) Exonerated/Unfounded

052-18

1. **Motion.** Member St. John motioned to approve the Exonerated/Unfounded case presented. Vice-Chair Galloway seconded the motion and there was no discussion of any cases. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

c) Exonerated/Not Sustained

212-18

1. **Motion.** Member St. John motioned to approve Exonerated/Not Sustained Case presented. Member Fine seconded the motion and there was no discussion of the case. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

XII. Non-Consent Agenda.

a) Administratively Closed Case.

125-18

1. **Motion.** Motion by Member Kass to approve the Administratively Closed case as presented. Member Fine second the motion. The motion was carried by the following vote:

For: 4 – Waites, Galloway, Fine, Kass

Against: 2 – St. John, Van Deventer

XIII. Serious Use of Force/Officer Involved Shooting Cases.

- a) There was no Serious Use of Force/Officer Involved Shooting Cases to present.

XIV. POB's Review of *Garrity* Materials.

- a) 186-16. Member Van Deventer proposed for CPC 186-16 be placed on the agenda for review of Garrity Material on a civilian complaint and is requesting that the board review the interview of the officer.

1. Motion. Motion by Vice-Chair Galloway that the Garrity Materials become available for review. Second by Member St. John. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

XV. Other Business.

- a) Vice-Chair Galloway mentioned a job well done on 3 officers from the North East Area Command participated in a career day with preschoolers.
- b) Discussion on election for subcommittee chairs. Vice-Chair Galloway recommended that when the POB elects the chair and vice-chair to also elect subcommittee chairs as well.

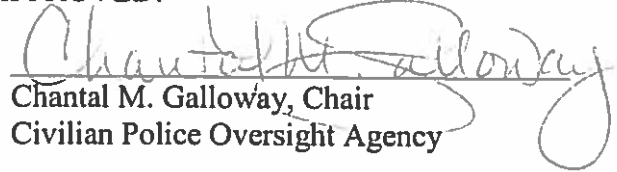
XVI. Adjournment – A motion was made by Member Fine to adjourn the meeting. Member St. John second the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

The meeting adjourned at 8:49pm

Next Regularly scheduled POB meeting will be on April 11, 2019 at 5:00 p.m. in the Vincent E. Griego Chambers.

APPROVED:


Chantal M. Galloway, Chair
Civilian Police Oversight Agency

4/11/2019
Date

CC: Julian Moya, City Council Staff
Katy Duhigg, City Clerk
Klarissa Pena, City Council President (via email)

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

Attachments

POLICE OVERSIGHT BOARD

PUBLIC COMMENT SIGN IN

DATE: 3/14/19

NAME (PLEASE PRINT)

1. Tadeusz Niemyjski

2. _____

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24. _____

POLICE OVERSIGHT BOARD
INTERNAL AFFAIRS
STATISTICAL DATA FOR THE MONTH OF FEBRUARY 2019

APD 911 Communications Center

Dispatched calls for Service for FEBRUARY 2019: 38,463 (decrease from JANUARY(3496)
x

INTERNAL CASES FOR THE MONTH OF FEBRUARY 2019

Total Internal Cases Completed the Month of FEBRUARY:

Comprised of:

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

Internal Cases Administratively Closed: 0

Internal Cases Mediated: 0.

Discipline imposed for Internal Cases FEBRUARY 2019

- 1: Suspension 96 hours
- 2: Letter of Reprimand
- 3: Counseling

EIRS FOR FEBRUARY 2019: 33 alerts distributed

Pending IA Cases for the Month of FEBRUARY 2019: 7

IA/IAC Cases opened in the month of FEBRUARY 2019: 8



Crash Review Board Update

Stats are for APD officer involved crashes from OCT. 1, 2018 thru January 31, 2019.

Preventable Crashes this quarter (Oct. 1, 2018 thru Jan. 31, 2019):

46 total Preventable Crashes for this time period.

- 8: Verbal Reprimand
- 17: Written/Letter of Reprimand
- 1: Suspension - (8 hour)
- 1: Suspension - (8 hour being appealed)
- 19: Waiting for FINAL DECISION TO DISCIPLINE to
come back from the officers Chain of Command.



APD Crashes Involving Police Crashes from Oct. 2018 - Jan. 2019:

\$4,235,426.93; Largest claim paid was the Mumaw case at \$3.8MM paid 10/26/2018.

\$272,797.54; 1st party damage to City property involved in APD crashes. 1st party refers to single vehicle crashes (example: police vehicle strikes a curb).





Police Officer Driver Training Program:

EMPLOYEE-INVOLVED TRAFFIC COLLISION POINT SYSTEM CRITERIA. The criteria for the point system lies in the following four levels of preventable traffic collisions:

Non-Preventable Collisions:	0 points
Level One Collision:	1 point
Level Two Collision:	2 points
Level Three Collision:	3 points
Level Four Collision:	4 points



Police Officer Driver Training Program *(con't):*

Level One Collision.

No vehicle tow or medical transport required.

Level Two Collision. A Level Two Collision involves any of the following:

Traffic collisions resulting in one or more vehicles towed;
Traffic collisions with medical transport not amounting to great bodily harm or death.

Police Officer Driver Training Program *(con't):*

Level Three Collision. A Level Three Collision involves any of the following:

- Unauthorized Code Three; or,
- Authorized Code Three involving:
 - Unsafe speed for conditions;
 - Failure to yield/stop/clear an intersection;
 - Other unsafe driving.



Police Officer Driver Training Program *(con't)*

Level Four Collision. A Level Four Collision involves any of the following:

Traffic collisions resulting in great bodily harm or death.

Traffic collisions involving an employee's gross negligence or reckless disregard for safety (action creates a high risk of death or serious bodily injury).



Police Officer Driver Training Program **(con't):**

Point Count Criteria and Guidance and Remediation Thresholds.

A preventable traffic collision that meets the criteria of any of the four levels must be assigned a number of points according to the schedule below. Points accrue for each traffic collision on the date of the collision and remain countable for 24 months from the date of the collision. After 24 months, the point or points are no longer countable toward the total.



Police Officer Driver Training Program *(con't):*

When two points are accrued in 12 months, the employee will be required to complete the online City Operators Permit training video and take any additional action deemed appropriate. Results will be supplied to Risk Management.

When three points are accrued in 12 months, the employee will be required to attend McGinnis School of Driving and take any additional action deemed appropriate.



Police Officer Driver Training Program *(con't):*

When an employee accrues four or more points or three preventable traffic collisions within 24 months, the employee will be required to attend the Charlie Fegan Law Enforcement Driving School and take any additional action deemed appropriate.

Priority	Definition	Examples	911 Initial Entry	Dispatch
1 ALL OPS	Any immediate life threatening situation with a great possibility of death or life threatening injury or any confrontation between people which could threaten the life or safety of any person where weapons are involved. Situations which are in progress or just occurred (just occurred is up to five minutes time delay).	<ul style="list-style-type: none"> • Shootings • Stabbings • Armed Robberies • Sexual Assault • Aggravated Assaults • In progress burglary into an occupied dwelling/Home invasions • Hostage situations • Domestic Violence with weapon involved 	30 Seconds	30 seconds ALL OPS
2	Any crime in progress which may result in a threat of injury to a person, major loss of property or immediate apprehension of a suspect. This also includes accidents with injury. Situations in progress or just occurred	<ul style="list-style-type: none"> • Vehicle accident w/injury • Non Injury accidents blocking major roadways • Responses with AFR • Missing Persons (endangered and 12 & under) • Any Armed Robbery, Panic, Duress, ATM Tamper or Ambush alarm • Child left in vehicle, unattended • Domestic Violence Calls IP/JO • Resid/Commercial Burgs J/O or unk when occurred and the location has not been checked. 	1 minute	3 Minutes
3	Minor incidents in progress or just occurred with no threat of personal injury, major loss of life or property.	<ul style="list-style-type: none"> • Neighbor Trouble IP/JO • Large Loud Parties • Animals left in vehicles • Shoplifter causing problems • Non injury accidents on side roads 	2 minutes	30 Minutes
4	Minor incidents with no threat of personal injury, loss of life or property. Delayed reports when the caller is at a public location.	<ul style="list-style-type: none"> • Nuisance incidents • Civil standby • Delayed call where caller is at a public location • Burglary alarms 	2 minutes	1 hour
5	Crime has already occurred no suspect at or near the scene and no threat of personal injury loss of life or property. Delayed reports where the caller is at home or at their workplace for an extended period of time.	<ul style="list-style-type: none"> • Delayed reports where a crime has already occurred and a delay will not prevent a crime from occurring, aid in the immediate apprehension of a suspect or cause a delay in an injured person(s) receiving aid 	2 minutes	3 hours

All Statements

Giving callers TRU and Online/CopLogic option:

“To report this incident to the police department, you can file a report online or via the telephone reporting unit”

“The police department handles reports on this type of incident online or via the telephone reporting unit”

“Your report will be taken over the phone or you can file it online”

Provide the benefits of online and telephone reporting.

Advising caller of response (xx = 30 minutes, 60 minutes or 3 hours)

“An officer will be dispatched as soon as one is available. Your call could hold up to XX minutes. If it will be later than XX, you will receive a call letting you know the call has not been dispatched yet. If anything changes before officers arrive, please call back and let us know”.

TYPE	PRIORITY				
	1	2	3	4	5
10-10 Periodic Watch					<ul style="list-style-type: none"> Include details for units to provide a location check PSA's can handle 10-10's when there is no indication of a safety issue
Assignment					PSA 1 or Officer
10-10-0 Welfare Check		When belief that immediate assistance may be required		Check address on person RP has not been able to contact	<ul style="list-style-type: none"> Ascertain if RO is involved; when RP last spoke to the person Medics sent if there is a known immediate medical problem to stage PSA can handle if there is no indication of a safety issue
Assignment		2 Officers		PSA1/ Officer	
10-11 Animal Calls		Vicious, traffic hazard	locked in vehicle		<ul style="list-style-type: none"> Determine situation. Advise Animal Welfare to see if they can handle prior to entering a call for dispatch. Question callers on barking dog calls to rule out suspicious activity or a prowler before referring caller to 311.
Assignment		If no ACO on duty or nearby, 1 Officer	If no ACO on duty or nearby, 1 Officer		Make notifications on request to Animal Welfare, including Game and Fish, etc
10-14 Escort					For Traffic/Motor Unit Escorts
Assignment					As advised
10-15 Domestic Violence	IP/JO shots fired or weapons displayed or life threatening injuries	Both parties present, no known weapons, injury.	One party has left but is expected to return.		<ul style="list-style-type: none"> If injuries, stage medics Determine relationship – offender to victim, caller to offender If offender <u>not</u> known to victim – follow kidnapping policy Include offender name, vehicle, phone and possible destination Need Court documents for officer
Assignment	2 Officers, Notify Sgt.	2 Officers	2 Officer		1 Officer

TYPE	PRIORITY				
	1	2	3	4	5
10-15-1 Domestic Escort/ Violation of order		Both parties present in confrontation, no known weapons (usually coded as 10- 15)	Both parties present, no confrontation	RP at nearby public location or only one party present-must have RO or history of threats/violence	Delayed Report of order violation parties separated • Standbys conducted from 0700-2100
Assignment		2 Officers	2 Officers	2 Officers	1 Officer
10-16 Prisoner Pick up			Motor or Detective requesting transport		
Assignment			1 Officer		
10-17 Pick-up/ Deliver Items			Found gun, unsecured	Caller waiting at a public location with found property	Caller waiting at home with found property
Assignment				PSA I/II Officer if no PSA av	PSA I/II Officer if no PSA av
10-18 Drunk					<ul style="list-style-type: none"> 10-18 is not usually used as a call-type, but as a descriptor of actions/behavior. Use 31-D, 39-5 or 39 based on information obtained for case entry purposes
10-23 Sex Offense		IP JO, offender believed to still be in the area	6-30 min ago, offender gone. Enter call only if victim is available for report	Over 30 minutes and RP wants contact and is at a public place	Report only, caller at home • If injuries, stage medics
Assignment		2 Officers	1 Officer	1 Officer	1 Officer

TYPE	PRIORITY				
	1	2	3	4	5
10-24 Traffic Control		Traffic light malfunction	Agency Assist for planned outage		<ul style="list-style-type: none"> Ascertains which direction is affected If agency assist how long will the 10-24 be needed
Assignment		PSAI/ Officer	PSAI/ Officer		Send 2 units if large, busy or complex intersection <ul style="list-style-type: none"> Civil Standby only conducted between 0700-2100. If outside these hours is there an emergent need. No ofcr. response on consumer complaints or non-criminal issues unless IP with confrontation Refer caller to appropriate resource – i.e. Better Business Bureau, Registrar of Contractors, General Attorney's Office Supplemental Reports w/offender or additional property Video/evidence
10-25 Contact				Civil standby to get personal belongings	All other items
Assignment				2 officers	PSA/1 Officer/ TRU for some supplements
10-27 Investigation					<ul style="list-style-type: none"> At officers request
Assignment					
27-0 Forgery Credit Card		IP/JO or offender in custody	Occurred 6-30 minutes ago, offender no longer present	Report at a public location	Report, caller at home
Assignment		2 Officers	1 Officer/PSA II	1 Officer/PSA II	1 Officer/PSA II TRU without offender
					<ul style="list-style-type: none"> If victim is out state and has suspect information, have officer contact RP via telephone if occurred in Abq. and local jurisdiction will not handle.

TYPE	PRIORITY				
	1	2	3	4	5
27-1 Homicide					<ul style="list-style-type: none"> Not normally utilized as an entry code.
Assignment					
27-2 CSP	IP/JO and/or life threatening injury	6-15 ago, injuries	16-30min ago, away from crime scene & offender	Over 30-60 min ago	Delayed Report <ul style="list-style-type: none"> If JO advise victim not to bathe or change clothes If injuries, stage medics If victim at different location, obtain incident location
Assignment	2 Officers, Notify Sgt.	2 Officers, Notify Sgt.	2 Officer Notify Sgt.	1 Officer Notify Sgt.	1 Officer Notify Sgt.
27-3 A/C/R/I Armed Robbery	IP or JO or with life threatening injuries	6-15 ago, injuries	16-30 ago, no injuries	Over 30-60 minute delay	Over 60 minute delay and caller at a residence <ul style="list-style-type: none"> If priority one, keep caller on the 21 until PD is 56 and with RP If injuries, stage medics Utilize the appropriate identifier for the type of call A-Auto. C-Commercial E-ETS I-Individual R-Residential Strong armed robberies where an item is taken by force is a one if IP/JO
Assignment	2 Officers, Notify Sgt.	2 Officers, Notify Sgt.	1 Officer Notify Sgt.	1 Officer Notify Sgt.	1 Officer, Notify Sgt.
27-4 Agg. Assault/ Battery	IP/JO w/weapons, offender present and/or life threatening injury	6 - 15 ago or w/ injury, offender has left	16-30 ago, Minor or no injuries, offender has left	Over 30-60 minute delay, no injury	Delayed and caller at a residence <ul style="list-style-type: none"> If injuries, stage medics 27-4 with weapon, delayed, notify Sgt.
Assignment	2 Officers, Notify Sgt.	2 Officers,	1 Officer	1 Officer	1 Officer
27-5 A Vehicle Burglary		IP/JO	6-30 mins ago	30-60 ago or caller waiting at public location	Delayed report, caller at residence
Assignment		2 Officers	2 Officers	1 Officer/PSA I or II/ TRU	1 Officer/PSA I or II/ TRU

TYPE	PRIORITY				
	1	2	3	4	5
27-5 C/R Burglary Commercial Residential	IP with victims inside business or residence	IP/JO with no victims at the scene or offenders possibly still in area. Just discovered inside has not been checked	6-30 mins ago	Over 30 mins ago	Delayed Report • If IP or offenders in sight. keep RP on the phone until PD 56
Assignment	2 Officers.	2 Officers	TRU/1 Officer	TRU /PSA I/II or 1 Officer	TRU /PSA I/II or 1 Officer
27-6 Theft		IP/JO offender(s) still seen in the area and over \$500	IP/JO offender(s) still seen in the area and under \$500	Delayed report, caller waiting at public location	Delayed Report • Send ATL if offender left the area • TRU calls – no offender information • Use 27.6M for metal thefts
Assignment		2 Officers	2 Officers	TRU/ PSA I or II/ Officer	TRU/ PSA I or II/ Officer
27-7 Auto Theft		IP/JO no weapon, caller continuing to follow offender, refusing to stop. OnStar.		Delayed report, caller at a public location	Delayed report, caller at residence • Check for tow • Run plate & VIN • Send BOLO to all area commands • If a weapon used to take vehicle, code as 27-3 • Officer only if TRU closed and PSA I/II not available
Assignment		2 Officers		TRU/ PSA I or II/ Officer	TRU/ PSA I or II/ Officer
27-7 F Found Stolen Vehicle		Offenders still in area	If located by owner and owner standing by, no offenders in area	Vehicle abandoned	• Cross reference to original incident
Assignment		2 Officers	1 Officer	PSA II/ Officer	
27-8 Shooting	IP/JO	6-15 minutes ago	16-30 min ago	Over 30 mins ago. Report - away from crime scene	Delayed Report • If injuries, stage medics • Keep caller on line if safe to do so
Assignment	3 Officers, Notify Sgt	2 Officers, notify Sgt.	2 Officers, Notify Sgt	1 Officer, Notify Sgt	1 Officer, Notify Sgt

TYPE	PRIORITY				
	1	2	3	4	5
27-9 Stabbing	IP/JO and / or injuries	6-15 minutes ago	16-30 min ago	Over 30 mins ago. Report - away from crime scene	Delayed Report
Assignment	3 Officers, notify Sgt.	2 Officers, notify Sgt.	2 Officers, Notify Sgt.	1 Officer, Notify Sgt	1 officer, notify Sgt
10-28 Missing Person		Mentally or physically impaired adults; 12 yo & younger; or any person in danger or foul play suspected			13 and older with no issues. Missing adults no issues- can be taken by PSA I's
Assignment		2 Officers Notify Sgt.		1 officer/TRU	1 Officer/PSA I TRU
10-29 Warrant Check		Subject at court, at Probation ofc who is attempting to flee or combative	Subject unknowingly waiting at Probation Ofc	Subject waiting at Probation is compliant, Probation/Parole wanting to go to a location to check on a subject. Caller wanting to turn themselves in, warrant picks up at KAFB	<ul style="list-style-type: none"> Ascertains if subject is aware of the arrest. Obtain name, DOB, desc & offense Determine if there is a warrant. Calls for misd warrants will be entered for dispatch 0700-2100. Calls for felony warrants will be entered all hours. Between 2100-0700, advise Sgt of the call and Sgt will determine if there will be a response.
Assignment		2 Officers	1 Officer	1 Officer	
10-30 Juvenile		Child locked in a vehicle with adult present "accidental" Child left in vehicle unattended.			Child locked in a car with parent present can go to AFR. AFR will advise if PD needed.
Assignment		1 officer			

TYPE	PRIORITY				
	1	2	3	4	5
30-1 Physical abuse		IP/JO	6-30	30-60 min	Delayed Report
30-2 Sexual abuse	IP/JO and/or life threatening injury	6-15 ago, injuries	16-30min ago, away from crime scene & offender	Over 30-60 min ago	Delayed Report <ul style="list-style-type: none"> If JO advise victim not to bathe or change clothes If injuries, stage medics If victim at different location, obtain incident location
30-3 Child Neglect		IP/JO	6-30	30-60	Delayed Report
Assignment	2 officers, notify Sgt.	2 officers	1 officer	1 officer	1 officer <p>Notify Sgt on any seriously injured juvenile.</p>
10-31 Suspicious	Subject with a weapon. Unknown situation or caller screaming, sounding 31— unable to determine what is occurring.	Suspicious activity involving attempts to lure children IP/JO	Other activity IP/JO or seen in the area	Citizen with a weapon on their hip or in holster. Other activity occurred >6 min ago	Delayed Report <ul style="list-style-type: none"> Pri 1 example: Hysterical screaming heard & unable to obtain any info from caller. Ascertain how long offender or vehicle has been there Description, what suspicious activity is occurring 31-T is utilized for a mass casualty threat-usually priority two
Assignment	2 officers, Notify Sgt.	2 Officers	1 Officer	2 officers	1 Officer
10-31-1 911 Hang up		phone number avail for re-contact and suspicious noises heard	Contacted, situation sounds normal		<ul style="list-style-type: none"> On calls pay close attention to background noise etc. to determine if emergency exists. Challenge TTY if nothing heard. On hang-up or abandoned calls, attempt to callback once. Do not leave a message. On wireless calls, attempt one callback, do not leave message
Assignment		2 Officers			

TYPE	PRIORITY				
	1	2	3	4	5
10-31-D Intoxicated Subject		AFD out and requesting PD	Citizen who states subject is present causing issues (see 39-5 D)0		
Assignment		2 officers	2 officers		
10-32 Fight	IP/JO weapons involved, poss life threatening injury	IP/JO no weapons. With weapons 6-30 ago. minor or no injury, parties still present	Verbal dispute, does not appear domestic.	Delayed Report (usually an 27-4 call)	<ul style="list-style-type: none"> If in progress with injuries, stage medics Delayed report, refer to assault policy
Assignment	2 Officers, Notify Sgt	2 Officers Notify Sgt if weapons involved			
10-33 Fire		Traffic Control			
Assignment		PSA's and Officers			
10-35 Prowler	Occupants home & offender seen or heard entering location (usually a 27-5)		Offender seen or heard outside, no attempt to make entry		
Assignment	2 Officers		2 officers		
10-37 Shoplifter	Weapons involved (usually not a 10- 37)	Attempting to detain and there is a physical altercation	Detained, causing problems	In custody not causing problems	<ul style="list-style-type: none"> Obtain where at dispatch location where shoplifter is being held ie security office etc
Assignment		2 Officers	2 Officer	1 Officer	

TYPE	PRIORITY				
	1	2	3	4	5
10-38 Vandalism		IP or JO with major Damage >\$500	IP or JO Minor damage <\$500	Delayed Report, public location	Delayed Report, caller at home
Assignment		2 Officers	2 Officers	TRU/PSA I/II or Officer	TRU/PSA I/II or Officer
10-39 Disturbance	Weapons involved	Physical altercations see 10-32	Verbal disturbances IP/JO		
Assignment	2 officers, Notify Sgt		2 Officers		
10-39-1 Loud Music				Loud stereo or TV	<ul style="list-style-type: none"> If a party, use 39-2
Assignment				2 officers	
10-39-2 Loud Party			Large party (more than 10) or underage drinking	Party	Number of people, alcohol involved, age range of attendees
Assignment			2 officers	2 officers	<ul style="list-style-type: none">
10-39-3 Shots Fired	IP/JO with offender seen.		IP/JO unknown source		<ul style="list-style-type: none"> 27-4 if shooting at occupied dwelling 38 if delayed report for damage
Assignment	2 officers, Sgt		2 officers		

TYPE	PRIORITY				
	1	2	3	4	5
10-39-4 Aggressive Driver/ Road Rage	Use 27-4 if weapon pointed at caller	Wrong way driver, caller refusing to stop following or offender chasing caller			
Assignment		2 Officers			
10-39-5 Pan Handlers				Subjects on private property and owner requesting removal	
Assignment				2 officers	
10-40 Mental Patient			Certificate of evaluation		<ul style="list-style-type: none"> This is usually a descriptive code and not a code utilized for call entry except for Certificates of Evaluation
Assignment			2 officers		
10-41 Neighbor Trouble			Verbal argument	Parties separated, both present at their homes	Delayed report
Assignment			2 officers	2 officers	1 officer
10-43 Rescue Call		At the request of AFR			<ul style="list-style-type: none"> To secure scenes for fire without any other known information.
Assignment		2 officers			
10-43-1 Suicide	Weapons seen	Threat to kill themselves by various methods, no weapons seen			<ul style="list-style-type: none"> If caller threatens "suicide by cop" notify Sgt. regardless of priority. Utilize MCT if available, utilize ECIT if MCT not available.
Assignment	2 Officers, Notify Sgt	2 Officers			

TYPE	PRIORITY				
	1	2	3	4	5
10-44 accident		Blocking major roadway/arterial street	Minor surface street		Delayed report
Assignment		PSA/Officers	PSA I		PSA I
10-45 Accident w/injuries		Reports of injuries, airbag deployment, M/C accidents			<ul style="list-style-type: none"> Delayed reports, AFR not responding Utilize PSA's as traffic control
Assignment		2 Officers, Notify Sgt. if significant		Officer	
10-46 Tow					<ul style="list-style-type: none"> Advised call only for impound and reposessions
Assignment					
10-47 DWI					<ul style="list-style-type: none"> Utilized for field
Assignment					
10-51 Deliver Message			Hospital requesting patient return	Deliver death or serious injury or illness message. DV release.	
Assignment			1 officer	1 Officer	
10-52 Alarms		Armed Robbery, Duress, Panic, ATM, Tamper, Ambush (i.e. anything manually activated)		Burglary alarms	<ul style="list-style-type: none"> 911 will call the location to determine if the situation is an in progress emergency and if so upgrade the call to a priority one. Any information obtained will be added to the call and given to responding units.
Assignment		2 officers		2 officers	

TYPE	PRIORITY				
	1	2	3	4	5
10-53 Silent Alarms		Silent hold-up, Armed Robbery, Duress, Panic	ATM Alarms	Silent or Audible burglary alarms,	<ul style="list-style-type: none"> 911 will call the location to determine if the situation is an in-progress emergency and if so upgrade the call to a priority one. Any information obtained will be added to the call and given to responding units
Assignment					
10-57 Narcotics				Actively seeing a hand to hand exchanged	Delayed Report
Assignment				2 officer	1 officer
10-58 Dead Body		Body found			
Assignment		2 officers, Notify Sgt.			
59 Bomb Threat	Device located	Threat made, no device located			<ul style="list-style-type: none"> 59-1 utilized for bomb squad activation
Assignment	2 officers, Sgt.	2 officers, notify Sgt			1 officer
64 Crime Scene Investigation					<ul style="list-style-type: none"> Utilized for calls where a scene needs to be processed. Priorities TBD
Assignment					
65 kidnapping	IP/JO or just released	6-15 minutes ago	16-30	31-60	Delayed report
Assignment	2 Officers, Notify Sgt	2 Officers	1 officer	1 officer	1 officer
					<ul style="list-style-type: none"> Often not a call entry type. If caller just released, or within five minutes it's a priority one even if they were kidnapped two days ago.

TYPE	PRIORITY				
	1	2	3	4	5
69 Sniper					More a descriptive call and not utilized for call entry
Assignment		2 units			
70 Haz. Materials		In progress, AFR requesting assistance			<ul style="list-style-type: none"> Responding with AFR Obtain placard information if available
Assignment		2 units			
80 Demonstration		Blocking roadways, causing a disturbance	Organized, peaceful demonstration, complaints of trespassing		<ul style="list-style-type: none"> Determine number of people
Assignment		2 units, Notify Sgt			
81 Riot	Riot with weapons	Large group gathering, no weapons			
Assignment	2 officers, Notify Sgt	2 units, Notify Sgt			
82 Cover/Back up Request	Officer requesting emergent assistance	Situation stable, officer requesting to meet with APD			
Assignment	2 officers, Notify Sgt	2 units			
83 Officer in Trouble	Citizen report of officer down				
Assignment	2 officers, Sgt.				

TYPE	PRIORITY				
	1	2	3	4	5
99 Officer Held Hostage	Reported by citizen				
Assignment	2 officers, Sgt				
Assignment					
Assignment					

2-58 Force Review Board

Under FRB Administrative Lieutenant or designee:

2-58-6(B)7 shall read: Provide copies of the FRB Investigation Presentations and FRB Report to the Civilian Police Oversight Agency Board within fifteen (15) calendar days for their review.



2-58 FORCE REVIEW BOARD

Related SOPs: None

2-58-1 Purpose

The purpose of this policy is to define the Force Review Board (FRB), its purpose, and its processes of operation. The FRB reviews and evaluates use of force investigations, tactical deployments, and force statistics to identify concerns and deficiencies regarding policy, training, tactics, equipment, and/or supervision. The FRB will document concerns and successes observed during each review.

2-58-2 Policy

It is the policy of the Albuquerque Police Department to conduct reviews and evaluations of all serious use of force investigations, a ten percent (10%) sample of completed supervisory force investigations, and all specialized tactical deployments in an effort to maintain high quality investigations and best practices. It is the policy of the Department to ensure the credibility, accuracy, and completeness of use of force investigations and tactical deployments.

The FRB will identify and report concerns and or successes found in the investigations and tactical activations that it reviews. Quarterly updates regarding concerns, deficiencies, and/or successes will be sent to the Academy by the Administrative Lieutenant as part of a needs assessment for future use of force training.

When the FRB identifies concerns and/or deficiencies, it shall make a referral or referrals to the appropriate Bureau or Division so that a resolution can be formulated. This may include modifications to equipment, policy, training, tactics or supervision.

The FRB shall follow up on referrals to assure that they are closed through the appropriate corrective action.

2-58-3 Definitions

A. Presenter

The presenter is the investigator or supervisor who has the specific knowledge of the investigation and will provide an explanation of the incident.

B. Concern

A concern is any identified issue of importance that is not addressed by policy or training.

C. Course of Business Document



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A course of business (COB) document is any routine document(s) created by or produced in an official capacity to indicate a plan or solution. This can include, but is not limited to, memoranda, forms, and/or police reports, and which is reflected in routine course-of-business files, e.g., e-mails, automated dating protocols, and centralized systems storage with system-assigned dating and delivery protocols. For example, a single document photocopied with a given date is not sufficient; however, a "forwarded e-mail" with a COB date and time or copy from a central server is sufficient.

D. Data Analysis FRB

The data analysis FRB is the FRB meeting to review all force statistics and data trends.

E. Deficiency

A deficiency is an identified failure or shortcoming that does not meet standards set by Department Standard Operating Procedures (SOPs), policies, procedures, and training. Further guidance in determining if a deficiency exists is set forth below, in 2-58-9.

F. Designee

A designee is an individual who may sit on the FRB as a replacement for a member who is unable to attend a meeting. To be a qualified designee, a member must have already attended the Department-provided FRB training.

G. FRB Report

The FRB report is the document that summarizes the voting outcome and discussion by the FRB. The Chief will approve this report no later than fifteen (15) calendar days after the FRB meeting.

H. Material Discrepancy

A material discrepancy is a lack of compatibility between two or more facts that could change the outcome of an investigation.

I. Non-member attendees

Non-member attendees are members for which attendance is not mandatory. Non-member attendees include administrative support staff, subject matter experts (SME), and the Executive Director of the Civilian Police Oversight Agency (CPOA).

J. Non-voting members

Non-voting members are mandatory attendees without voting responsibilities. At the discretion of the FRB Chair, non-voting members may ask questions, answer



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questions from the FRB voting members, and participate in discussion of matters before the FRB.

K. Voting Member

Voting members are mandatory attendees with voting responsibility. Refer to 2-58-6.

L. Recommendation

A recommendation is a formal proposal made by a voting member or designee to implement a specific course of action.

M. Referral

A referral is a recommendation that has been voted on and approved by the FRB. All referrals shall be assigned to a specific unit or person to remediate an identified deficiency or concern.

N. Serious Use of Force FRB

The serious use of force FRB meeting is the FRB meeting to review all use of force investigations where the level of force rose to the level of "serious" as defined by Department policy.

O. Supervisory Use of Force FRB

The supervisory use of force FRB is the FRB meeting to review a ten percent (10%) sample of reportable uses of force, which have a completed chain of command review, and the level of force did not rise to that of a serious use of force.

P. Tactical Activation FRB

The tactical activation FRB meeting is the FRB meeting that reviews all specialized tactical unit deployments to analyze and evaluate response protocols and uses of force.

Q. Ten Percent (10%) Sample

The ten percent (10%) sample is the selection of reportable uses of force, which have a completed chain of command review. The ten percent sample is based on the number of completed supervisor use of force investigations for a given month. A list of investigations that are completed in a given month are numbered and the data is entered into an online random sample generator.

R. Preponderance of Evidence



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The preponderance of the evidence is greater weight of evidence; evidence that establishes that a fact is more probable than not.

2-58-4 Responsibilities of the FRB

The FRB will meet routinely and shall identify whether an incident reveals concerns and/or deficiencies in policy, training, equipment, tactics, and/or supervision that requires documentation and/or remediation. The FRB will also document any successes observed during each review.

- A. The FRB will review each serious use of force investigation completed by the Internal Affairs Force Division (IAFD) within thirty (30) days of the FRB members receiving the investigative report.
- B. The FRB will review a ten percent (10%) sample of supervisor use of force investigations that are closed in the previous month. The sample will be determined through the use of a random number generator.
- C. The FRB will review each tactical unit deployment to analyze and critique specialized response protocols and uses of force.
- D. The FRB will review use of force data, on at least a monthly basis, to discuss significant trends and patterns that are provided by the data analyst.
- E. The FRB will evaluate:
 1. Whether the investigation is thorough and complete. This will be done by FRB members reviewing the investigation materials, considering the investigation presentation, and engaging the presenter in a question and answer session following explanation of the incident to gain a full understanding of the facts leading up to and following the use of force, serious use of force, or tactical deployment.
 2. The findings made during the investigation to assure that they are supported by a preponderance of the evidence.
 3. Whether any use of force was consistent or inconsistent with Department policy and training.
 4. Whether the incident raised policy, training, equipment, tactical and/or supervisory deficiencies or concerns.
 5. Whether or not the chain of command appropriately identified and took actions to correct any deficiencies in the way the incident was handled and/or investigated.
- F. The FRB will generate a referral and/or addendum when there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of the force investigation findings.



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2-58-5 Composition of the FRB

The Chief of Police will appoint the chair and the designee chair of the FRB.

A. The FRB will be comprised of the following voting members:

1. Deputy Chief of the Administrative Support Bureau or designee: Commander from the Administrative Support Bureau;
2. Deputy Chief of the Field Services Bureau or designee: Commander from the Field Services Bureau;
3. Deputy Chief of the Investigative Bureau or designee: Commander from the Investigative Bureau;
4. Field Services Commander or designee: other Field Service Commander; and
5. Academy Division Commander or designee: Academy Lieutenant.

B. The FRB will be comprised of the following non-voting members:

1. FRB chair or FRB designee chair (except in a tie vote, refer to 2-58-6(A)(5));
2. FRB Administrative Lieutenant or designee; and
3. Legal Advisor or designee: attorney from the City Attorney's Office.

C. Additional non-voting attendees:

1. Administrative support staff;
2. Executive Director of the CPOA; and
3. Subject Matter Expert(s) recognized by the Department in their field:
 - a. Internal Affairs Force Division;
 - b. Tactical Section;
 - c. Training Academy; and
 - d. Crisis Intervention Unit.

2-58-6 FRB Member Responsibilities

A. FRB Chair:

1. Call the meeting to order;
2. Facilitate the meetings of the FRB;



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3. Review and approve the FRB report to be sent to the Chief;
4. Complete the voting sheet for every investigation presented; and
5. Provide the tie-breaking vote when there is a tie in voting.

B. FRB Administrative Lieutenant or designee:

1. Move for approval of the minutes from the previous meeting;
2. Provide status reports to the FRB at the beginning of each meeting on the progress being made to close referrals from the FRB;
3. Take minutes of each FRB meeting;
4. Generate the BlueTeam referral entry and send it to the appropriate bureau or division;
5. Prepare the FRB report and provide it to the Chief of Police within fifteen (15) calendar days of the investigation presentation and within forty-five (45) calendar days of the FRB members receiving the file; and
6. Monitor the assignment and closure of referrals by the FRB through BlueTeam.

C. Voting member or designee:

1. Review investigation material in its entirety, minimum of five (5) calendar days to review; and
2. Attend all FRB meetings
 - a. Notify the FRB Administrative Lieutenant at least five (5) calendar days prior to the meeting, via email, if unable to attend the FRB meeting.

D. Non-Voting Member or designee:

1. Review investigation materials in their entirety; and
2. Attend all FRB meetings
 - a. Notify the FRB Administrative Lieutenant at least five (5) calendar days prior to the meeting, via email, if unable to attend the FRB meeting.
3. Legal Advisor or designee:
 - a. Shall provide a legal perspective on the investigation, if necessary.



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4. Subject Matter Expert (SME):

- a. To provide answers to questions posed by the FRB within their area of expertise.

5. Administrative Support Staff:

- a. Assist with or run the PowerPoint presentation, if needed;
- b. Prepare an agenda identifying investigations that will be presented to the FRB;
- c. Prepare the investigation documents for the FRB to review; and
- d. Distribute the agenda and investigation documents to voting members seven (7) calendar days prior to the FRB meeting, as requested by the Administrative Lieutenant.

6. Executive Director of the Civilian Police Oversight Agency (CPOA):

- a. The Executive Director will be provided an opportunity at the end of the presentation to ask questions of the presenter and SME(s) concerning the investigation.

2-58-7 Training Requirements for FRB Members

- A. Voting and non-voting members as well as designees shall complete the following training:
 - 1. Mandated APD use of force training and or refresher updates;
 - 2. FRB training course or FRB refresher course(s); and
 - 3. Reality-based training (RBT).

2-58-8 FRB Meeting and Voting Procedures

- A. The Administrative Lieutenant or support staff shall send the agenda and investigation materials to all FRB members and designees at least seven (7) calendar days prior to a meeting.
- B. The FRB Administrative Lieutenant shall move for approval of the previous meeting's minutes and provide a status update on previous referrals from the FRB.
- C. The attendance of three (3) voting members is required to establish a quorum and take action as a Board. An FRB meeting shall be rescheduled if a quorum is not present.

The FRB Chair shall adjourn the FRB meeting and the meeting shall be rescheduled if more than two (2) voting members must leave (due to emergencies, call-outs, etc.).

D. Voting



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1. All FRB voting members in attendance must vote.
2. A majority vote is necessary to:
 - a. Identify a deficiency or concern;
 - b. Refer a recommendation; and
 - c. Refer potential misconduct to Internal Affairs
3. Where there is a tie in voting, the FRB Chair (or designee) shall provide the tie-breaking vote.
4. The FRB Chair will capture the votes of the FRB members on one voting sheet.
5. An FRB member or designee shall not participate in any meeting or review involving a department employee who is a family or household member, spouse, or domestic partner or any relationship that in reality or appearance suggests improper influence between two or more department employees.
- E. The officer(s) involved in, or witness to, the investigation being presented to FRB shall not be present, to include the reviewing chain of command.
- F. The FRB Chair has the discretion to approve additional individuals to attend and observe an FRB meeting (with the exception of the officer(s) involved in the investigation being reviewed).
 1. Individuals in an observational capacity may not participate in any of the meeting discussions nor provide any opinions, suggestions, proposed deficiencies, or recommendations to the Board.
 2. An observer may be asked to leave for any reason deemed by the FRB Chair.
- G. The Administrative Lieutenant or designee shall document in the minutes:
 1. All identified deficiencies, concerns, misconduct, and successes;
 2. The votes on the deficiencies, concerns, and misconduct;
 3. All recommendations;
 4. The votes on recommendations;
 5. All referrals; and
 6. Absent FRB members and the reason for their absence.
- H. The FRB Administrative Lieutenant shall document in the FRB report and the referral those identified deficiencies and/or concerns and recommendations approved by a majority vote.



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2-58-9 Identifying Deficiencies or Concerns

The FRB shall follow the standards below in evaluating whether there existed any policy, training, equipment, tactics, or supervisory deficiencies:

A. Policy deficiency or concern

In evaluating deficiencies and concerns regarding policy, the FRB shall consider whether changes should be made to policy either to clarify an ambiguity or to modify the policy as it applies to situations similar to the one under review.

B. Training deficiency or concern

In evaluating deficiencies and concerns regarding training, the FRB shall consider whether the involved officer, unit, division, or Department should receive additional/refresher training and whether the training itself should be revised or amended for the entire Department.

C. Equipment deficiency or concern

In evaluating deficiencies and concerns regarding equipment, the FRB shall consider whether the officer(s) had access to the right equipment to resolve the situation; whether equipment appeared to function properly or improperly; whether changes in equipment type should be made in the future; and whether policy and training adequately addresses the equipment the officer(s) will use in similar situations.

D. Tactics deficiency or concern

In evaluating deficiencies and concerns regarding tactics and officer safety, the FRB will consider whether the officer's decision-making properly considered officer safety, de-escalation opportunities, time, distance, best practices, safety of the subject, and the safety of the public.

E. Supervisory deficiency or concern

In evaluating deficiencies and concerns regarding supervision, the FRB will consider whether the supervisory response was appropriate and consistent with policy, training, and best practices.

2-58-10 Deficient Investigations

- A.** Where the FRB determines an investigation is deficient or the findings are not supported by a preponderance of the evidence, the FRB will document its concerns and order an additional investigation.



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1. The FRB will document in an addendum the specific evidence (or lack of evidence) from the incident that supports its finding that a presentation was not supported by a preponderance of the evidence.
2. The Administrative Lieutenant or designee shall forward the original use of force investigation and addendum as part of a referral to the appropriate bureau or division for additional investigation via BlueTeam.
3. The receiving bureau or division is responsible for the additional investigation and shall respond in writing documenting proposed corrective measures within seven (7) calendar days of receiving the addendum.
 - a. If the additional investigation or proposed corrective measures cannot be completed within seven (7) calendar days, the receiving bureau or division shall send a memorandum via BlueTeam to the FRB informing it of the expected date of completion.
- B. If the FRB identifies potential misconduct, the Administrative Lieutenant shall send a referral to Internal Affairs.

2-58-11 Referrals and Responses

- A. All referrals will be tracked and maintained in BlueTeam.
- B. The FRB Administrative Lieutenant shall generate the BlueTeam referral entry and send it to the appropriate bureau or division.
- C. The referral shall contain:
 1. The deficiency, concern, or potential misconduct;
 2. The recommendation;
 3. The bureau or division employee responsible for completing the recommended task; and
 4. The date the documented action on the referral is due back to the Administrative Lieutenant.
- 6-7 D. The identified bureau or division employee will address and implement any recommendations given by the FRB within the timeframe designated.
- 6-7 E. The identified bureau or division employee responsible for completing a recommendation shall attach all COB documents supporting proof of completion into BlueTeam.



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- F. If a referral cannot be completed by the due date, the identified bureau or division employee shall provide the reason and proposed date of completion via memorandum, which must be attached to the BlueTeam entry and sent to the FRB Administrative Lieutenant.
- G. If potential policy violations are identified, the FRB Administrative Lieutenant shall send an FRB referral to Internal Affairs via a BlueTeam entry.

2-58-12 Reports and Records

Internal Affairs Force Division shall be the custodian of all records generated by the FRB. The following documents shall be compiled in a BlueTeam entry, and ultimately housed in IAPro for tracking:

A. FRB meeting entry, including:

1. Agenda;
2. Sign in sheet;
3. Minutes;
4. Voting sheets;
5. FRB report;
6. PowerPoint presentations; and
7. Any other COB documents that are deemed necessary by the FRB.

B. FRB referral entry

1. Referral(s);
2. Referral closure COB documents, including responses by bureaus and divisions; and
3. Any other COB documents as deemed necessary by the FRB.

2019 PPRB Activity

Date	SOP	Action	Disposition
1/11/19	SOP 1-46 Field training and evaluation program		Passed
	SOP 2-5 use of department vehicles		Passed
	SOP 2-8 On body recording devices	3/14 update	PPRB
	APD aviation police		Passed
1/23/19	SOP 2-40 Misdemeanor Traffic	3/6 comment	Passed
	SOP 2-41 Traffic Stops	3/6 comment	Passed
	SOP 2-44 Traffic and Roadway	3/6 comment	Passed
	SOP 2-51 Safe Driver Award Program	3/6 comment	Passed
2/6/19	SOP 1-31 Court Services Unit	3/11 Comment	Passed
	SOP 1-80 Prisoner Transport Unit	3/11 Comment	Passed
2/13/19	SOP 2-58 Force Review Board	3/21 Comment	Passed
2/27/19	SOP 1-2 Social Media		Tabled
	SOP 1-44 False Alarm Reduction Unit	3/18 comment	Passed
	SOP 3-31 Physical Fitness Testing and Training		Tabled
	SOP 3-1 Field Services Bureau SOP 3-2 Investigative Bureau SOP 3-3 Special Services Bureau SOP 3-4 Professional Accountability Bureau SOP 3-5 Administrative Support Bureau	Organizational -To be combined into one SOP	Remove SOPs
3/6/19 (noticed 3/5/19)	SOP 1-78 Police Service Aide Program	4/11/19 Comment	Passed
	SOP 2-4 Use of Respirators	4/11/19 Comment	Passed
	SOP 2-14 Use of Cell-Site Simulator Technology	4/11/19 Comment	Passed

(A)

**TWENTY FOURTH CITY COUNCIL
OF THE
CITY OF ALBUQUERQUE
February 20, 2019**

COMMITTEE AMENDMENT NO. _____ TO BILL NO. CS/2 O-18-23

AMENDMENT SPONSORED BY COUNCILOR: Benton

1. On Page 2, lines 28 – 31, allow the stricken language to remain and remove the following underlined language"

"The CPOA is accountable to, but independent from, the Mayor, the City Attorney's Office, the City Council and APD. The CPOA . . .]

EXPLANATION: This amendment is proposed by APD Forward and if approved, this section would remain unchanged from current, and would continue to read as follows:

"There is hereby created a Civilian Police Oversight Agency (the "CPOA") as an independent agency of City Government, not part of either the City Administration or City Council that consists of a Police Oversight Board (the "POB") and an Administrative Office led by the CPOA Executive Director."

Keeping the "accountable to but independent" language in the ordinance, helps make the ordinance more consistent with the CASA. As written, Committee Substitute 2 tracks verbatim with the CASA, and is consistent with language that was recommended by the POB and CPOA. However, APD Forward believes that this change too vague. Even if this language is removed from the ordinance, it would still remain effective per the CASA.

③

**TWENTY FOURTH CITY COUNCIL
OF THE
CITY OF ALBUQUERQUE
February 20, 2019**

COMMITTEE AMENDMENT NO. _____ TO BILL NO. CS/2 O-18-23

AMENDMENT SPONSORED BY COUNCILOR: Benton

1. On Page 8, line 3, insert the following language after the period ("."):

"[APD shall provide POB members, the Director, and CPOA staff with reasonable access to APD premises, files, documents, reports, data (including APD raw data), and any other materials that are reasonably necessary for this purpose.]"

EXPLANATION: This amendment is intended to clarify that APD is required to allow the CPOA access to its data, including Raw Data. This amendment was requested by APD Forward, and helps clarify the CPOA's ability to access APD Raw Data.

(C)

**TWENTY FOURTH CITY COUNCIL
OF THE
CITY OF ALBUQUERQUE
February 20, 2019**

COMMITTEE AMENDMENT NO. _____ TO BILL NO. CS/2 O-18-23

AMENDMENT SPONSORED BY COUNCILOR: Benton

1. On Page 8, line 9, insert the following language before the period (" "):

"[, and to recommendations by recognized research and policy development groups, forums, consortiums, or similar.]"

EXPLANATION: The existing language of committee substitute 2 recognizes that in making policy recommendations, the POB (or the Board) should be able to draw from a number of sources in recommending policy changes for APD – including from "police best practices" that have been used by other departments.

This amendment is recommended by APD Forward, and would expand the definition of what constitutes police best practices, from just those practices that other police departments have found effective, to also include recommendations from policy research groups. With this change, the full definition of police best practices would read as follows:

"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."

(D)

**TWENTY FOURTH CITY COUNCIL
OF THE
CITY OF ALBUQUERQUE
February 20, 2019**

COMMITTEE AMENDMENT NO. _____ TO BILL NO. CS/2 O-18-23

AMENDMENT SPONSORED BY COUNCILOR: Benton

1. Delete subsections 2, 3, and 4 on Page 13, Line 30 through Page 14, Line 8, and delete subsections 6 and 7 on Page 14, Lines 12 through 33. Insert the following in place thereof:

"[Prior to seeking a subpoena, the Executive Director must make a reasonable attempt to exhaust all other avenues for obtaining the information sought. Subpoenas shall be served in a manner that complies with all requirements for administrative subpoenas under New Mexico Law.]"

EXPLANATION: APD Forward suggests that the subpoena language found in subsections 2, 3, 4, 6, and 7 is too cumbersome and intrudes too greatly on the POB's ability to set internal procedures for itself. APD Forward recommends the above changes in lieu of these sections which deal with notice to various individuals within the City about the need for information, documentation by the Director about the steps already taken that were unsuccessful in getting the information, and a standard that must be met in order for the POB to issue a subpoena.

(E)

**TWENTY FOURTH CITY COUNCIL
OF THE
CITY OF ALBUQUERQUE
February 20, 2019**

COMMITTEE AMENDMENT NO. _____ TO BILL NO. CS/2 O-18-23

AMENDMENT SPONSORED BY COUNCILOR: Benton

1. On Page 13, Line 29, add the following before the period ("."):

"[or to investigate any pattern of civil rights abuse including but not limited to racial profiling, malicious abuse of process, illegal searches, detentions, or arrests.]"

EXPLANATION: APD Forward recommends that the scope of the POB's subpoena authority be expanded beyond the scope of the CASA. Paragraph 283 of the CASA requires the City to grant the CPOA subpoena authority to carry out its functions as identified within the CASA. In applying this requirement of the CASA CS/2 proposes to limit the scope of subpoena authority to the review of civilian police complaints and audits of police use of force.

Although APD Forward reads the existing language of CS/2 to place limits on the subject matters over which subpoena authority can be exercised, this is actually not the case. Even without this amendment, the CPOA would still enjoy subpoena authority over any of any subject matters such as profiling or illegal searches if they are relevant in the context of a CPC or an audit – which are the actual lynchpins (together with policy development) of the CPOA's purpose and function.

(F)

**TWENTY FOURTH CITY COUNCIL
OF THE
CITY OF ALBUQUERQUE
February 20, 2019**

COMMITTEE AMENDMENT NO. _____ TO BILL NO. CS/2 O-18-23

AMENDMENT SPONSORED BY COUNCILOR: Benton

1. Delete the following language on Page 19, Line 32 through Page 20, Line 1:

"[A copy of these performance evaluations shall be delivered to the Chief of Police, the Mayor, and the President of the City Council for receipt by the Council.]"

EXPLANATION: APD Forward recommends that the POB should not be required to share its annual performance evaluation of its executive director with the Mayor, the Chief of Police, or the City Council.

However, the purpose of this provision within the CS/2 was to implement the CASA requirement that the CPOA/POB remain accountable to the Mayor, the City Council and APD – this information, like the annual reports from the CPOA help promote general oversight and accountability.

6

**TWENTY FOURTH CITY COUNCIL
OF THE
CITY OF ALBUQUERQUE
February 20, 2019**

COMMITTEE AMENDMENT NO. _____ TO BILL NO. CS/2 O-18-23

AMENDMENT SPONSORED BY COUNCILOR: Benton

1. Insert the following on Page 10, Line 9 after the period ("."):

"[The City Council shall report out its progress on filling CPOA Board vacancies on a quarterly basis.]"

EXPLANATION: APD Forward recommends that City Council *Staff* report its progress on filling vacancies. However, Council staff is not an entity unto itself – it is an agent of the Council, and the Council is ultimately responsible for filling vacancies. Accordingly, this amendment would require the City Council to report to the public on its progress filling vacancies on the CPOA Board.

This would not likely yield much valuable information to the public because board vacancies are not likely to span periods of three months. It's also technically unenforceable. Recent board vacancies were on hold per Councilor direction only for the purpose of allowing the Council to first determine whether the size of the board should be reduced.

(11)

**TWENTY FOURTH CITY COUNCIL
OF THE
CITY OF ALBUQUERQUE
February 20, 2019**

COMMITTEE AMENDMENT NO. _____ TO BILL NO. CS/2 O-18-23

AMENDMENT SPONSORED BY COUNCILOR: Gibson

1. On Page 3, line 12 insert the following between the words "housed" and "in":

“, and the Board shall hold its meetings”

EXPLANATION: With this amendment, the full sentence would read:

“The CPOA shall be housed, and the Board shall hold its meetings in a facility that is separate from any police presence and is located outside of the Albuquerque/Bernalillo Government Center, the Police Department and/or all of the police substations.

This amendment would require that POB meetings be held outside of City Hall. The ordinance already requires that the CPOA offices be housed outside of City Hall – a measure that's intended to help promote the agency's appearance of independence. Having the meetings outside of City Hall may go further in promoting independence in fact and in appearance.

(I)

**TWENTY FOURTH CITY COUNCIL
OF THE
CITY OF ALBUQUERQUE
February 20, 2019**

COMMITTEE AMENDMENT NO. _____ TO BILL NO. CS/2 O-18-23

AMENDMENT SPONSORED BY COUNCILOR: Gibson

1. On Page 20, line 24 insert the following after the period (".").

"In addition to the findings and recommendation, each investigation report shall at a minimum also include: 1) a section outlining any relevant background and facts relating to the matter, 2) a listing of any relevant policies, procedures, or practices that are at issue, and 3) an analysis of the issues in the case."

EXPLANATION: This amendment will help ensure that the Board members have relevant information and analysis presented to them in their Board material to help guide their review and consideration. At present it appears that Board members do not get much written analysis or information about the cases they are considering unless they independently review the investigation file. Additional, helpful information can be useful to help focus a decision maker's analysis and can help build comfort with their ultimate decision.

5

**TWENTY FOURTH CITY COUNCIL
OF THE
CITY OF ALBUQUERQUE
February 20, 2019**

COMMITTEE AMENDMENT NO. _____ TO BILL NO. CS/2 O-18-23

AMENDMENT SPONSORED BY COUNCILOR: Jones

1. On Page 3, line 7, add the following language after the period:

"Board members shall rely on the CPOA professional investigative staff to perform the investigations called for under this ordinance, and shall not independently investigate any matters before the Board."

EXPLANATION: This amendment re-emphasizes that the CPOA Board should not be doing its own investigations, it should be relying on its professional staff for this purpose.

(K)

**TWENTY THIRD CITY COUNCIL
OF THE
CITY OF ALBUQUERQUE
February 20, 2019**

COMMITTEE AMENDMENT NO. _____ TO BILL NO. CS/2 O-18-23

AMENDMENT SPONSORED BY COUNCILOR: Sanchez

1. On Page 3, line 17 through 18, delete the following text:

~~“equal to, at a minimum, 1/2% of APD's annual operation budget”~~

EXPLANATION: With this amendment, the full section would read:

“Budget. The CPOA shall have a dedicated and independent source of funding ~~equal to, at a minimum, 1/2% of APD's annual operation budget~~, administer its own budget [in compliance with state and local laws] and supervise its own staff in compliance with the City's Merit Ordinance and contractual services policies and procedures. The CPOA shall recommend and propose its budget to the Mayor and City Council during the City's budget process to carry out the powers and duties under §§ 9-4-1-1 through 9-4-1-14, including [itemized listings for] the funding for staff[,] and all necessary operating expenses.”

Currently the CPOA gets a fixed appropriation that can fluctuate year-over-year with APD's budget, rather than being based on the actual needs of the Agency. This could present a misalignment of resources – for example, if APD gets a larger appropriation year-over-year to implement police reform measures, and this results in fewer or the same number of police complaints or police policy revision (i.e. the CPOA general workload stays the same or decreases), the CPOA will at the same time be getting a bigger budget while its demands are presumably decreasing. This Amendment would make the Agency's budget more closely align with its actual needs by placing it within the annual budget process, still as a dedicated and independent budget but according to its actual needs as opposed to fixed amount.

This amendment would not conflict with the CASA, which requires only that the “City shall provide the agency a *dedicated* budget and grant the agency the authority to administer its budget in compliance with state and local laws.” The CASA does not require a fixed minimum appropriation based on APD's budget.

Historic CPOA Budgeting

CPOA	Approved Budget	Actual Expenditures	Over/(Under)	CPS's reviewed
FY15	\$610,357	?	?	256
FY16	\$1,005,000	\$877,450	\$(127,550)	198
FY17	\$984,000	\$751,723	\$(232,277)	268
FY18	\$860,000	\$732,944	\$(127,056)	275
FY19	\$1,087,000	not avail	-	

(L)

**TWENTY THIRD CITY COUNCIL
OF THE
CITY OF ALBUQUERQUE
February 20, 2019**

COMMITTEE AMENDMENT NO. _____ TO BILL NO. CS/2 O-18-23

AMENDMENT SPONSORED BY COUNCILOR: Sanchez

1. On Page 18, line 13, add the following before the words "city employee":

"at will"

EXPLANATION: With this amendment, will clarify that the CPOA Director is not a member of the City's Classified Service. With this amendment, the full sentence would read:

"The Director will be a full-time [~~contractual~~ at-will] city employee [directly responsible only to the Board.] to be selected, removed, or reviewed as follows:"

SUTIN THAYER & BROWNE
A PROFESSIONAL CORPORATION
LAWYERS

IRWIN S. MOISE (1906-1984)
LEWIS R. SUTIN (1908-1992)
FRANKLIN JONES (1919-1994)
RAYMOND W. SCHOWERS (1948-1995)
GRAHAM BROWNE (1935-2003)
NORMAN S. THAYER (1933-2018)

ROBERT G. HEYMAN (Of Counsel)

ANDREW J. BARANOWSKI
LILIANA BENITEZ DE LUNA
ANNE P. BROWNE
SUZANNE WOOD BRUCKNER

STEFAN R. CHACÓN
MARIA MONTOYA CHAVEZ
OSCAR COBOS
EDUARDO A. DUFFY
TINA MUSCARELLA GOOCH
JESSE D. HALE
SUSAN M. HAPKA
WADE L. JACKSON
DAVID H. JOHNSON
ROBERT J. JOHNSTON
JACQUELINE K. KAFKA
CHRISTINA M. LOONEY
STEVEN DOUGLAS LOONEY

DEBORAH E. MANN
BRANA L. MEECH
LYNN E. MOSTOLLER
CHARLES J. PIECHOTA
JAY D. ROSENBLUM
FRANK C. SALAZAR
JUSTIN R. SAWYER
ANDREW J. SIMONS
MARIPOSA PADILLA SIVAGE
BENJAMIN E. THOMAS
L. CURTIS VERNON

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ALBUQUERQUE, NEW MEXICO 87103
505-883-2500
FAX 505-888-6565

150 WASHINGTON AVE, SUITE 210
SANTA FE, NEW MEXICO 87501
POST OFFICE BOX 2187
SANTA FE, NEW MEXICO 87504
505-988-5521
FAX 505-982-5297

WWW.SUTINFIRM.COM

March _____, 2019

Via email only: jjowflc@gmail.com

James J. Owens
5415 Fortuna Rd. NW
Albuquerque, NM 87105

Re: Dr. Carl Foster; Claimed Open Meetings Act Violation by Albuquerque Police Oversight Board

Mr. Owens:

This office represents the Albuquerque Police Oversight Board (the “Board”). The City of Albuquerque has provided our office with correspondence from your office, on behalf of your client Carl Foster (sent in January, 2019) regarding what you contend are “ongoing” violations of the New Mexico Open Meetings Act (“OMA”).

We have looked into your OMA concerns and it appears they are the same concerns which you first raised on January 7, 2016 via the correspondence to attorney Mark Baker.¹ (Email attached as **Exhibit 1**.) It also appears that these issues were fully addressed by the Board at its January 14, 2016 meeting. That meeting’s agenda included “[d]iscussion and possible action on Open Meeting Act complaint from Carl Foster.” (1.14.16 Meeting Agenda, § X, included as **Exhibit 2**.) The minutes from that meeting also include detailed discussion of your concerns, in addition to a statement from the Board addressing your allegations and summarizing the emails of Board members you contended were OMA violations. (1.14.16 Meeting Minutes, included as **Exhibit 3**, at pg. 6, § X (summary of discussion), and at pgs. 17–19 (statement from the Board)). In addition to the foregoing, it is our understanding that the Board published the emails on its [website](#) where they are still available, along with the meeting agenda and accompanying minutes. This process was in line with what the OMA requires when a public body is faced with allegations of OMA violations. *See generally* NMSA 1978, § 10-15-3(B).

Additionally, the Board remains unaware of any specific actions that it allegedly needs to undo because you have not identified of any actions you think were invalid because of purported OMA violations. You did not identify any such actions in your January 7, 2016 correspondence

¹ If this is incorrect, please let us know.

Christopher Owens re: Open Meetings Act
March 4, 2019
Page 2

(Exhibit 1), which the Board pointed out at its January 14, 2016 meeting (Exhibit 3 at 18). In your January, 2019 email correspondence with the City of Albuquerque you also did not identify any such actions. Without knowing what actions you claim were invalid, there is nothing further the Board can do to address your concerns beyond the actions taken and summary provided at the January 14, 2106 public meeting.

In the Board's continued commitment to complying with the OMA, the Board is happy to look further into your concerns if you do not believe the January 14, 2016 meeting addressed them. To do so, however, the Board asks that you please identify the specific OMA violations you believe occurred (and were not addressed at the January 14, 2016 meeting) and the specific actions taken by the Board that you believe are invalid.

Very truly yours,

SUTIN, THAYER & BROWNE
A Professional Corporation

By _____
Christina M. Gooch
Albuquerque Office

cc via email only: Jeffrey Driggers, City of Albuquerque Legal Department

Christopher Owens re: Open Meetings Act
March 4, 2019
Page 3

Bcc via email only POB and Ed Harness

Law Office of James J. Owens
5416 Fortuna, NW
Albuquerque, New Mexico 87105

January 7, 2016

Mark Travis Baker
Peifer, Hanson & Mullins, PA
20 First Plaza Ctr NW #725
Albuquerque, New Mexico 87125-0245

Via Facsimile
505-243-6458

Dear Mr. Baker,

My client, Dr. Foster, believes the Police Oversight Board persists in a pattern of Open Meeting Act violations. I have brought this to your attention in previous phone conferences as the animus for Dr. Foster's October 28, 2015 Initial Public Records requests, which of this date continue to be ignored. The City's ongoing delay and refusal to timely return records is in direct violation of the IPRA statute.

Please be advised that I am requesting you schedule a hearing about concerning open meeting act violations within the next fifteen days, pursuant to New Mexico's mandamus Open Meetings statute NMSA 1978 Sections 44-2-1 – Sections 44:2-14, to remedy the pattern of open meeting act violations prevalent within the Police Oversight Board.

If you have questions, please call or write.

Very truly yours,

James J. Owens

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Leonard Waites, Chair*
Beth Mohr, Co-Vice Chair *Jeffery Scott Wilson, Co-Vice Chair*
Dr. Moira Amado-McCoy *Dr. Jeannette Baca* *Susanne Brown*
Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Edward Harness, Executive Director

Amended

POLICE OVERSIGHT BOARD AGENDA

Thursday, January 14, 2016 – 5:00 PM
Vincent E. Griego Chambers

- I. Welcome and call to order.**
- II. Pledge of Allegiance- *Rev. Dr. David Z. Ring III***
- III. Approval of the Agenda**
- IV. Approval of minutes**
- V. Public Comments**
- VI. Comments concerning (DMS) - APD planning**
- VII. Sub-committee Reports**
 - a. Outreach Sub-committee – Dr. Jeannette Baca**
 - b. Policy and Procedure Review Sub-committee – Susanne Brown**
 - c. Case review Sub-committee – Leonard Waites**
 - d. Local Conference Sub-committee (NACOLE)**
- VIII. Reports from City Staff**
 - a. APD**
 - b. City Council**
 - c. Mayor's Office**
 - d. City Attorney**
 - e. CPOA – Edward Harness, Executive Director**
- IX. Meeting with Counsel re: Closed session to discuss matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the CPOA is or may become a participant- Board Attorney Mark Baker.**

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).
- X. Discussion and possible action on Open Meeting Act complaint from Carl Foster**
- XI. POB Legal Representation Contract**

XII. Findings by POB:

167-12	112-14	162-14	013-15	049-15
057-15	070-15	087-15	104-15	126-15
133-15	137-15	139-15	146-15	148-15
149-15	151-15	152-15	153-15	154-15
156-15	157-15	158-15	159-15	160-15
161-15	164-15	166-15	183-15	187-15
188-15	190-15	192-15	194-15	199-15
202-15	207-15	218-15	221-15	225-15
226-15	229-15	241-15		

XIII. Other Business

XIV. Adjournment- *Next Regularly scheduled POB meeting will be on February 11, 2016 at 5 p.m. in the Vincent E. Griego Chambers.*

(Dinner break will be taken by POB at ~6:00 pm, during a natural break in the agenda)

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT BOARD

Thursday, January 14, 2016 – 5:00 PM
Vincent E. Griego Chambers, Basement Level
City/County Government Center – One Civic Plaza NW
Albuquerque, New Mexico

Members Present:

Leonard Waites (Chair)
Jeffrey Scott Wilson (Co-Vice Chair)
Beth Mohr (Co-Vice Chair)
Eric H. Cruz
Joanne Fine
Dr. Jeannette Baca
Dr. David Z. Ring III
Dr. Susanne Brown

Members Absent

Dr. Moira Amado-McCoy

Others Present:

Mark Baker
Michelle Contreras
Diane McDermott
Lt. Garcia, APD
Marlo Kiefer
Edward Harness (Executive Director)
Paul Skotchdopole
Amanda Bustos
Julian Moya

Minutes

- PO Box 1293
- Albuquerque
- New Mexico 87103
- www.cabq.gov
- I. **Welcome and call to order:** Chair Leonard Waites called the meeting to order at 5:02 pm.
 - II. **Pledge of Allegiance** – Board Member Ring led the Board in the Pledge.
 - III. **Approval of the Agenda:** Copies of the agenda were distributed. Board Member Wilson moved to approve the agenda. Board Member Fine seconded the motion. Approved.
For: Waites, Fine, Wilson, Ring, Cruz, and Baca.
 - IV. **Approval of Minutes:** Copies of the minutes from the December 10, 2015 POB meeting were distributed and reviewed by the Board. Board Member Ring moved to approve the minutes as written. Board Member Baca seconded the motion. Approved.
For: Waites, Wilson, Fine, Baca, Cruz, Ring, Brown, Mohr.
 - V. **Public Comments:** The following is a summary of comments given to the Police Oversight Board by members of the community:
 - A. Community member Charles Powell stated that he has lived in Albuquerque for nearly 30 years and the entire time there has been a problem with APD shooting people, at times unjustifiably. He hopes the consent decree will help with these issues. The DOJ didn't find anything with regard to racial profiling, but the Board needs to see that there's a

Civilian Police Oversight Agency

Minutes – January 14, 2016

Page 1

Albuquerque - Making History 1706-2006

problem. The Board needs to come up with solutions to the problem of racial profiling. Even when the police are not involved in a shooting, they are still affecting black lives by not rendering aid or concluding that a shooting was justified.

- B. Community member Connie Vigil acknowledged the volunteer service of the board members. Ms. Vigil brought up SOP 1-05 and would like the Board to review it in the future. Ms. Vigil's friend was in a hit and run bike accident and has experienced problems regarding the report of the accident. Ms. Vigil asks that the Board thoroughly review the policy 1-05 for issues with the way it is written. Ms. Vigil would like the Board to consider changing the meeting times for Subcommittees so that more community members can get involved. Ms. Vigil would also like all Board members to have Albuquerque City email addresses, so that they can easily be contacted by community members.
- C. Community member Tony Pirard brought a list of people who have been killed by APD between 2010 and 2014. Mr. Pirard stated that many veterans, such as Kenneth Ellis, have been killed by APD. Mr. Pirard named several law enforcement officers, a judge, and City government officials, including the mayor, who he believes should be in jail for the crimes they've committed and for taking lives. The APOA should have nothing to do with the settlement agreement. Mr. Pirard identified himself as a private attorney general and referred to the citizen's investigative police, stating they are here to correct the problem of "killer cops."
- D. Community member Charles Arasim sent the Board a letter regarding a news item about the release of officer's personnel and discipline files. There was also an article about an investigation of the Chief of police at the airport that the Board may want to take a look at it. Mr. Arasim would like the Board to think about their prerequisites for going into closed sessions. The former records custodian at APD has filed a whistleblower lawsuit and he thinks the Board needs to take a hard look at that. The IG Subcommittee/study session is occurring in City Council and it looks like there will be a new request for applicants for Inspector General.
- E. Community member Tad Niemyjski stated that the officer who shot Kenneth Ellis is now suing the Chief because he doesn't want to promote him. We had three police shootings last year. Some of these cops are doing whatever they want, including suing. Mr. Niemyjski met Major Montano, who told him he would help him, but he still hasn't heard anything back from him. The Oversight Board needs to take a stand and stop the problems that are occurring with APD.
- F. Community member Don Schrader asked the Board, "Does the person who made the 911 call on James Boyd now terribly regret having made that

call?" Mr. Schrader asked if any of you had a mentally ill family member raging out of control would you call 911 knowing that they might kill your loved one? These murders breed fear, hatred and revenge toward police. If we want police to be safe and respected, we must demand that brutality, false arrests, harassment, and injustice stop now. Some police condemn police brutality but fear speaking out publicly. Mr. Schrader compliments retired officer Sam Costales for speaking honestly and passionately. He encourages Board members to meet personally with people like Sam Costales, who condemn police brutality.

G. DOJ Monitor, Dr. Ginger, addressed the Board and gave an update on the progress of his office. He now has an office in Albuquerque on 4th Street. He is looking for the items that are spelled out in the Settlement Agreement to be in the reports from the POB and CPOA. Dr. Ginger did not attend a previously scheduled meeting with the former CPOA Acting Director because he did not agree with a business item on the agenda and did not wish to be there when that agenda item was taken care of. Dr. Ginger commends the Board for their process of training and understanding their duties and what's expected of them in the process. Dr. Ginger stated that it is common for departments to have a low percentage of compliance in the first report partly because the whole reason they are involved is that there are issues that need to be worked on. He is meeting next week with a website developer who will be helping with his new office website.

VI. **Comments Concerning DMS – APD Planning:** John Whitsitt, SOP Liaison for APD, gave the Board a presentation on how Power DMS (Document Management System) works. Mr. Whitsitt's job includes facilitating changes with SOPs within the department, as well as managing DMS. The website organizes documents and makes them searchable. There are about 31 policies that are under DOJ review, so those will not be up to date at this time.

A. Board members requested additional training on Power DMS, in order to be able to view SOPs and make suggestions for changes.

VII. **Sub-Committee Reports:**

A. **Outreach Subcommittee – Chair Jeannette Baca:** The Outreach Subcommittee met on December 30, 2015 and also had a Special meeting on January 11, 2016 to discuss changes to the CPOA brochure.

i. The Board is invited to attend a meeting of a local advocacy group for people concerned with police response to people with mental health issues on February 23, 2016. Sam Cochran, who developed the Memphis Model for crisis intervention will be in attendance. Peter Cubra is the contact person. The CPOA can be listed a sponsor on the meeting brochure if they choose. There is also a working meeting on February 24, 2016.

Civilian Police Oversight Agency

Minutes – January 14, 2016

Page 3

- a. **Board Member Ring moved to have the Board support the upcoming visit with Sam Cochran. Board Member Fine seconded. Passed.**

- ii. The CPOA brochure is being updated, which will include a Spanish translation, and will allow the citizen to use the brochure as a complaint form that can be mailed to the agency, postage paid. The Board can email comments or suggestions, including changes to the logo, to either Board Member Baca or Amanda Bustos.
- iii. Amanda Bustos gave an update on the agency's new social media presence, which includes a website, facebook, twitter, and soon LinkedIn. There is an email on the website that links directly to the CPOA. Photos of the Board will eventually be added to the website.

B. Policy and Procedures Subcommittee – Chair Susanne Brown: There have been 5 meetings in the last four months. Board Member Brown and Director Harness have also attended meetings of the Policies & Procedures Review Board.

- i. Policy on retaliation (1-4) has been finalized and written exactly the way the Subcommittee had suggested.
- ii. When the CPOA discovers criminal behavior in a complaint, it gets turned over to Internal Affairs. Director Harness will now be able to follow the case to its resolution.
- iii. Use of Force policy won't be discussed again for six months.
- iv. Board Member Brown would like the board to approve concepts to be suggested for policy change rather than initially rewriting the policy word for word.

C. Local Conference Subcommittee (NACOLE) – Chair Joanne Fine: The conference will be held September 25th through 29th.

- i. The conference is a platform to exchange best practices with others from around the country. Participants can propose workshops. The deadline for proposals is January 15, 2016.
- ii. The committee is working on fundraising for scholarships. The cost is around \$550 for all five days, but participants can pay for individual days as well.
- iii. Anyone interested in civilian oversight is invited to attend, including anyone in law enforcement. The committee is looking for ways to get the word out to the community to attend the conference.

D. Case Review Subcommittee – Chair Leonard Waites: Dr. Moira Amado-McCoy has resigned as Chair. Board Member Jeffrey Scott Wilson is the new Chair for the Case Review Subcommittee.

- i. The subcommittee decided to review all the backlogged cases.
- ii. The subcommittee has created a flow chart which illustrates the process by which complaints are investigated and reviewed.

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VIII. Reports from City Staff

A. APD – Lt. Garcia

- i. APD received 39,880 calls for service in the past month.
- ii. Received 10 internal affairs investigations.
- iii. 1 case was administratively closed. 5 cases total closed.
- iv. Discipline imposed consisted of 2 letters of reprimand, 1 verbal reprimand, and 1 termination.
- v. There are 9 pending cases for December.

B. City Council – Julian Moya:

- i. City Council has begun its process for reappointing three board members. Councilman Moya will keep the Board updated on the progress.
- ii. The Inspector General position has been reopened. It will be back on the agenda on February 1, 2016.

C. City Attorney – no report

D. CPOA – Edward Harness, Executive Director

- i. Since the last POB meeting, the agency has responded to two officer involved shooting incidents. Ten new cases have been opened in 2016 and eleven Job Well Done reports received.
- ii. In February Director Harness will attend IAPro Blue Team training.
- iii. I.T. will contact Director Harness regarding SharePoint access and he will administer the program.
- iv. A meeting was held with members of APD to review settlement agreement responsibilities. Final reviews will be submitted to the monitoring team on February 2, 2016.
- v. Progress is being made on data entry. The agency is reviewing applications for the data analyst position.
- vi. Director Harness is drafting a letter of support regarding the termination of Officer Hindi since the matter involves intimidation of one of the agency's investigators.
- vii. The Board discussed the issue of IPRA requests, including the possibility of Board members getting their own email server for ease of processing requests.

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

- A. At 6:50 p.m. Member Wilson moved to have the Board go into a closed session with Attorney Mark Baker to discuss matters subject to the

attorney-client privilege pertaining to threatened or impending litigation in which the CPOA is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7). Approved.

For: Waites, Fine, Wilson, Ring, Cruz, Baca, Mohr, and Brown.

- B. At 7:37 p.m. Board Member Cruz moved to have the Board officially reconvene having come back from closed session to discuss only matters subject to the attorney client privilege pertaining to threatened or impending litigation in which this public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7). Approved.
- For: Waites, Fine, Wilson, Cruz, Ring, Baca, Mohr, and Brown.

- X. **Discussion and possible action on Open Meeting Act complaint from Carl Foster:** A copy of the Statement Re Owens Letter was distributed to the Board and read by Board Member Fine. See "Attachment A." The statement is a response to the allegation made by James Owens that emails between Board members violated the Open Meetings Act. A summary of the email contents was read by Board Member Fine.

- A. Board Member Fine moved to accept the statement as written. Board Member Mohr seconded the motion. Passed.

For: Waites, Fine, Wilson, Cruz, Ring, Baca, Mohr, and Brown.

- XI. **POB Legal Representation Contract:** Mark Baker, attorney for the CPOA, has reached the \$75,000.00 threshold for legal fees.

- A. The Board discussed the issue of increasing the budget for Mark Baker's fees for legal services.
- B. The initial contract was approved as a first step, but there was discussion at the time that it could reach \$150,000.00.
- C. Board Member Mohr moved to have Director Harness request an additional \$75,000.00 from City Council to increase the contract amount for attorney's fees to \$150,000.00 for the year. Board Member Ring seconded the motion. Passed.

For: Waites, Fine, Wilson, Cruz, Ring, Baca, Mohr, and Brown.

- XII. **Findings by POB:** Director Edward Harness read a summary of the following Citizen Police Complaints (CPC) and the Board discussed and voted on the findings of the CPOA:

- A. **CPC 146-15** – A citizen complained that during a traffic stop, an officer was biased, wrote a misleading report, berated her, and threatened her with arrest. Based on the CPOA's investigation, including review of lapel video, some of the officer's statements to the citizen were inappropriate and violated SOP. The CPOA found the allegations of misconduct against the officer **SUSTAINED** for violation of SOP 1-04-1F regarding making a

statement that was perceived as a threat of arrest. The other allegations were Not Sustained and Exonerated.

- i. Board Member Fine moved to accept the findings of the CPOA. Member Wilson seconded the motion. Passed.
- ii. Board Member Baca would like this CPC documented as relating to mental health issues.

B. The Board voted on the following group of Administratively Closed complaints:

167-12	112-14	013-15	049-15	057-15	070-15
087-15	104-15	126-15	133-15	137-15	139-15
148-15	151-15	152-15	153-15	158-15	159-15
161-15	164-15	166-15	187-15	202-15	207-15
218-15	221-15	225-15	226-15	229-15	

- i. Board Member Ring moved to approve of the Administratively Closed cases. Board Member Brown seconded. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.

C. CPC 149-15 – A citizen complained that after she called police on a neighbor who had allegedly pulled a gun on her and her family, a responding officers did not file an accurate report, should have found the neighbor in violation of the law, and that the officer knew the neighbor personally. The CPOA investigation found the allegations against Officer M. SUSTAINED for SOP 2-24-3 (A)(5)(f), SUSTAINED for SOP 1-04-4 (0), SUSTAINED for SOP 1-04-4 (N) (Not based on original complaint) and SUSTAINED for SOP 1-4-4 (w) (Not based on original complaint). The CPOA found the allegations of misconduct against Sgt. B SUSTAINED for SOP 1-04-4 and SOP 3-18-3 (Not based on original complaint).

- i. Board Member Mohr moved to accept the findings of CPOA. Board Member Fine seconded. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.
- ii. The Chain of Command did not concur with the CPOA's findings. Director Harness will inform the Chief that the POB does not agree with the discipline recommendation and will request a written explanation of the non-concurrence.

D. CPC 154-15 – A citizen complained that she witnessed an APD Service Aide texting while driving. PSA S. denied the allegation. The CPOA found the allegation NOT SUSTAINED based on lack of information and/or evidence to show whether or not the misconduct occurred.

- i. Board Member Ring moved to accept the findings of the CPOA. Board Member Cruz seconded. Passed.

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For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.

- E. CPC 156-15** – A complaint was filed by a citizen claiming that an unknown SWAT officer had extracted his DNA illegally from a cut on his finger during his arrest. The investigation into the complaint revealed that there was no visible cut on the citizen's finger and no evidence that his DNA had been collected by any SWAT officer. The allegation was found to be UNFOUNDED.
- i. Board Member Fine moved to accept the findings of the CPOA. Board Member Cruz seconded. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.
- F. CPC 157-15** – A complaint was filed by a citizen who alleged that an officer searched a homeless man's pockets illegally, and told the citizen to mind his own business when he tried to find out what was going on. The investigation showed that the officer was searching the man's pockets because he was investigating a homicide warrant involving the man. The officer repeatedly asked the citizen to not interfere with his work. The allegations against Officer T. were EXONERATED.
- i. Board Member Fine moved to accept the findings of the CPOA. Board Member Waites seconded. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.
- G. CPC 160-15** – A citizen alleged that Officer G. was unprofessional, raised his voice to him, and refused to give his name when asked. The investigation revealed that Officer G. was assisting someone in a civil matter and was there to keep the peace. The review of lapel video confirmed that Officer G. did raise his voice, had refused to give his name to the citizen, and conducted himself unprofessionally by speaking badly about the complainant to a community member. The allegations of violating SOPs 3-14-2-C, 1-04-1-F, 1-02-3 A, were SUSTAINED.
- i. Board Member Ring moved to accept the findings of the CPOA. Board Member Waites seconded. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.
 - ii. The Chain of Command did not concur with the CPOA's findings. Director Harness will inform the Chief that the POB does not agree with the Chief's findings and will request a written explanation of the non-concurrence.
- H. CPC 162-14** – A complaint was filed by a citizen whose vehicle was hit by a motorcyclist who was charged with DWI. The complaint alleges that the officers involved at the time of the accident did not respond to the DA's requests for interviews or show up to scheduled court dates. A review of the records by the CPOA showed that the officers had shown up to every court date and had complied with all interview requests. The hearing had been delayed twice, and the time in which the defendant could be

prosecuted ran out. The allegations of misconduct were found to be UNFOUNDED.

- i. Board Member Fine moved to accept the findings of the CPOA. Board Member Waites seconded. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.

I. **CPC 183-15** – A citizen complained that Officer H. towed his car for dark window tint, told his sister to shut up, and caused his children to cry. The investigation, which included review of lapel video, showed that Officer H. was professional and courteous and did not interact with the kids or tell the sister to shut up. The allegations of misconduct were found to be UNFOUNDED. Officer H. was incorrect in having the vehicle towed for tint; furthermore, the citizen removed the windshield tint in the officer's presence. The allegation of unlawful towing, violation of SOP 2-48-2 (4)(A), was SUSTAINED.

- i. Board Member Waites moved to accept the findings of the CPOA. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.
- ii. Director Harness discussed why progressive discipline using the Chart of Sanctions needs to be examined. In this case, the recommendation of discipline seems to not fit, as the officer had already been terminated for other discipline issues.

J. **CPC 188-15** – A citizen complained that Sergeant Y. was arrogant, knocked on her door aggressively, and made her uncomfortable. The investigation revealed that Sergeant Y. was responding to a custody issue and knocked on the door in a reasonable manner and was professional throughout the interaction with the complainant. The allegation against Sergeant Y. was EXONERATED.

- i. Board Member Baca moved to accept the findings of the CPOA. Board Member Brown seconded. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.

K. **CPC 190-15** – A citizen who was involved in a hit-and-run accident complained that Officer H. who responded to the accident, did not show up to two scheduled court dates, and did not respond to her messages asking him to call her back. The investigation revealed that Officer H. did not respond to the CPOA's urgings to attend the court hearing. The allegation of violation of SOP 2-01-2 C 1 was SUSTAINED.

- i. Board Member Fine moved to accept the findings of the CPOA. Board Member Cruz seconded. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.

L. **CPC 192-15** – A citizen complained that she tried to file a report about her son being missing and possible custodial interference on the part of her husband, but that both Officer N. and Officer V. would not file a report.

The CPOA investigation determined that Officer N. had done an initial investigation and determined that the citizen was still married to her husband and that there was no custody agreement. It was also determined that CYFD was involved with the family. Officer N. took a report at the citizen's request. The CPOA also learned that Officer V. is an officer who works at Metropolitan Court and had only a brief encounter with the citizen in which she spoke about conspiracies. He was not required to file a report. Officer N.'s alleged conduct was UNFOUNDED. Officer V.'s alleged conduct was EXONERATED.

- i. Board Member Fine moved to accept the findings of the CPOA. Board Member Mohr seconded. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.

M. CPC 194-15 – A citizen alleged that Officer C. did not file a report after his tools were stolen. A review of the case showed that there was a civil dispute between the complainant and the person who allegedly stole his tools. Officer C. advised the complainant that it was a civil dispute, but that he would still file a report, which he did. The allegation of misconduct was UNFOUNDED.

- i. Board Member Ring moved to accept the findings of the CPOA. Board Member Fine seconded. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.

N. CPC 199-15 – A citizen alleged that Lieutenant M. had used excessive force during her arrest and that he did not have cause to arrest her. The lapel video showed that Lt. M. had probable cause to arrest the citizen for drinking in public next to a liquor establishment. The evidence also showed that the citizen was resisting Lt. M.'s efforts to put her in custody. The allegations against Lt. M. were found to be EXONERATED.

- i. Board Member Fine moved to accept the findings of the CPOA. Board Member Mohr seconded. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.

O. CPC 241-15 - A citizen complained that when she called APD, Telephone Operator K. was rude to her and hung up on her. A review of the phone recording in the complaint showed that Operator K. had continually interrupted the citizen, did not let her speak with a supervisor as she'd asked, and hung up abruptly after telling the citizen that officer's would be responding to her call. The allegation of a violation of SOP 1-04-1 G 1 was found to be SUSTAINED.

- i. Board Member Mohr moved to accept the findings of the CPOA. Board Member Cruz seconded. Passed.
For: Brown, Waites, Baca, Ring, Mohr, Wilson, Cruz, and Fine.

P. Case Summaries of Administratively Closed complaints for January 2016:

Case Summaries January 2016

CPC 167-12 – A citizen complained that when police raided her ex-husband's home, they traumatized her two minor sons who were there, detained them for a very long time, and used aggressive tactics with them. An investigation showed that police had a warrant to raid the home based on suspected illegal activity of the ex-husband of the complainant. Police did not know the two minor sons were there before they entered the home, but because they could easily be mistaken for adult men, the police detained them during the raid. The police acted appropriately in securing the home and did not detain the boys for longer than necessary. No aggressive tactics were used. Since no SOP violations were found, and additionally, the 90 day time limit for investigating the complaint had passed, this case was ADMINISTRATIVELY CLOSED.

CPC 112-14 – An anonymous citizen complained that police were standing on an overpass walkway pointing what looked like a gun at cars travelling below on the freeway. Later it was determined that the police were using a radar to catch speeders, but it had caused her and her passengers to be in fear when they thought it was a gun. Two days prior to the complaint being filed, a woman had been shot in the face while driving her car by a person standing on a freeway overpass. Detective Z. from Internal Affairs advised that if a similar shooting occurs again, APD will revisit its policy on using radar units on overpasses. No SOP violations occurred in this matter. This case was ADMINISTRATIVELY CLOSED.

CPC 013-15 – A citizen who was involved in a traffic accident alleged that it took officers over an hour to arrive on scene, that the report contained incorrect information, that the officers were rude and unhelpful, and he had not received a copy of the report. After speaking to the CPOA Investigator, the citizen expressed a desire for his complaint to be handled informally. An APD Commander spoke with the officers involved and their Supervisor. The Supervisor spoke to the citizen who stated he was satisfied with the way the complaint was handled. This complaint was administratively closed.

CPC 049-15 – A citizen complained that two APD officers who were in a Loves gas station allegedly yelled at her son to say hello to the cashier and accused him of obstruction of justice for arguing with them. A review of the Loves surveillance video showed that the only person besides the cashier was a security guard. No APD officers were in the area at that time. The video showed that the complainant's son only spoke to the security guard. Since there is no further information, and no evidence that any APD employee was involved, this case was ADMINISTRATIVELY CLOSED.

CPC 057-15 – A citizen complained that in 2008, an APD officer refused to read Miranda Rights, violently took him by force, and conducted an illegal search. The officer allegedly searched him and took his license. The citizen stated that the officer tossed him out of his car and left him on the side of the road. A review of the case and all records relating to the complainant failed to show any incident matching the one in the complaint. Due to a lack of information the CPOA ADMINISTRATIVELY CLOSED this case.

CPC 070-15 – A citizen complained that she had left numerous messages for Officer I. regarding problems she was having with neighbors. The investigation found that Officer I. had not received any messages from the citizen. As there were no SOP violations found, the complaint was ADMINISTRATIVELY CLOSED.

CPC 087-15 – A citizen complained that after his wife was in a traffic accident, it took APD over an hour and a half to arrive. APD dispatch had informed the citizen that they were especially busy that day. Since no individual officer could be identified, and since the issue had to do with the volume of calls to APD that day, the case was ADMINISTRATIVELY CLOSED. The citizen was informed that the issue would be brought up to the Police Oversight Board.

CPC 104-15 – A complainant alleged that he witnessed an APD officer speeding, and he caught up to the officer and video-taped him. The complainant spoke to an APD Lieutenant, but refused to answer certain questions and told the Lt. that he'd erased the video. The case was referred to Internal Affairs for possible criminal activity. It was returned to CPOA after no criminal activity could be found. The CPOA could find no evidence of SOP violation and due to lack of information it was ADMINISTRATIVELY CLOSED.

CPC 126-15 – A citizen complained that he was falsely arrested and that APD officers placed an illegal wire-tap device in his vehicle. The citizen stated that he was also arrested on a later date and his vehicle was impounded. The complaint alleged that during this arrest, APD officers stole his watch and damaged his cell phone, which he alleged were inside his impounded vehicle. Due to the allegations of criminal misconduct, the CPOA referred this complaint to Internal Affairs. No SOP violations were identified in a review of this complaint. No information could be found regarding the second arrest. This complaint was ADMINISTRATIVELY CLOSED.

CPC 133-15 – A citizen complained that APD SWAT had used tear gas or some similar gas in the neighborhood where they live, which forced them to have to leave their home because of irritation from the gas. The citizen felt APD should have warned people they would be using gas. A preliminary investigation into the complaint determined that APD had followed protocol for using gas to get a suspect out of a neighboring house, including an announcement over a PA system with the warning that residents should stay inside. The citizen did not respond to numerous attempts to contact him after filing this complaint. Because no SOP was violated, this case has been administratively closed.

CPC 137-15 – A citizen complained that they called APD because their neighbor kept putting branches from the citizen's tree that had fallen into their yard back into the citizen's yard. The police allegedly told the neighbors that it was okay to do that. The citizen requested that someone from APD come out and tell the neighbor that it was unlawful for them to do that. During the CPOA investigation, Chief Eden had two officers go back to the neighbor's home to inform them that what they were doing was not lawful and Chief Eden reported back to the citizen that it had been taken care of. Since

this complaint was resolved to the citizen's satisfaction, it was ADMINISTRATIVELY CLOSED.

CPC 139-15 – A complaint was filed by a citizen who claimed that she was yelled at by an officer who was at the scene of an accident as she tried to pass by the officer's vehicle. The investigation revealed that the officer is no longer employed by APD. Since the CPOA lacks jurisdiction to investigate further, this case was ADMINISTRATIVELY CLOSED.

CPC 148-15 – A complaint was filed by a citizen who alleged that APD used excessive force in apprehending a man, who was Tased and subsequently knocked unconscious. The investigation revealed that police were responding to a 911 call by a woman who was being attacked by a home invader. The attacker fled when police arrived and physically assaulted officers while trying to get away. Another officer chose to use the least amount of force necessary to apprehend the man, and used his Taser on him. The man hit his chin on the sidewalk when he fell. Upon learning the details of the case, the complainant asked to withdraw the complaint and agreed that the police had not used excessive force. The complaint was ADMINISTRATIVELY CLOSED.

CPC 151-15 – A citizen alleged that in 2008, Officer K., Officer G., and Officer P. bullied, harassed, and intimidated him. The citizen claimed that the officers lied and were disrespectful of him and determined that he was suicidal and incapable. The investigation showed that the citizen previously filed the same complaint. There is no record of the incident alleged in the complaint. All three officers have retired. Due to a lack of any SOP violations, lack of information, and lack of evidence of the incident, this complaint was ADMINISTRATIVELY CLOSED.

CPC 152-15 – A citizen alleged that when she called to report her car stolen, the Telephone Reporting Unit (TRU) operator refused to take a report because the car was not insured. Several months later, the citizen claimed she discovered the car had been towed by APD, but the driver was not arrested because the car had not been reported as stolen. During the investigation, the phone records were extensively reviewed, but no record of the call was found. Because it was impossible to determine who the operator was, no further investigation was conducted. The Supervisor for TRU was asked to inform all personnel that insurance is not required to file a report of a stolen car. This complaint was ADMINISTRATIVELY CLOSED.

CPC 153-15 – A citizen alleged that he requested a welfare check on his child and had asked to remain anonymous, but that Officer G. had identified him to his ex-wife. A preliminary investigation showed that Officer G. discovered the citizen's ex-wife had a restraining order against him and by sitting across the street from her home and calling APD about his ex-wife he was in violation of the restraining order. In addition, Officer G. had not been given the ex-husband's name and only identified that the same person texting the ex-wife had called in the anonymous complaint. Since no violations of SOPs had occurred, this case was ADMINISTRATIVELY CLOSED.

CPC 158-15 – A citizen complained that Detective P. asked him if he owed anyone money for drugs during an investigation into who may have embezzled his motorcycle. A CPOA investigation showed that Detective P. was never assigned to the case and only had one brief interaction with the citizen. Det. P. did not remember what the citizen had described. The CPOA made several attempts to contact the citizen to get more information, but was not successful. This complaint was ADMINISTRATIVELY CLOSED.

CPC 159-15 – An anonymous complainant alleged that Officer M. gave him numerous citations and towed his scooter. The complaint did not allege wrongdoing by Officer M., but stated that the officer could have handled things differently. A review of the lapel video showed that Officer M. was professional and courteous during the stop. Since no SOPs were violated, this complaint was ADMINISTRATIVELY CLOSED.

CPC 161-15 – A citizen alleged that he called APD to report an assault against him, but stated that officers didn't tell him what was happening and he hasn't heard from either officer who responded. A review of the complaint revealed that two officers responded, and issued the citizen and his neighbor citations for battering each other. The citation informed the citizen of what was happening. This case was ADMINISTRATIVELY CLOSED.

CPC 164-15 – A citizen filed a complaint alleging that she was told by an officer that if she kept calling APD she could lose her housing voucher. She stated she had called police because her bank card was stolen on a previous occasion. A CPOA Investigator attempted to contact the citizen to get more information because no date of the incident was provided. When contacted, the citizen stated she did not wish to pursue the complaint. The Investigator ensured she was dropping the complaint of her own free will. Without further information, and since the citizen wished to withdraw the complaint, the case was ADMINISTRATIVELY CLOSED.

CPC 166-15 – A citizen complained that he was pulled over and had his car towed because he is African American. He alleged that the officer called him the "N" word as he walked away. The CPOA investigation revealed that the car was towed because the citizen had a suspended license. Lapel video showed that the man was visibly upset at having his car towed, and also showed that the officer never called him the "N" word. The citizen told the CPOA Investigator that he was angry at the time that he filed the complaint, but now wished to withdraw the complaint. Since no SOP violations occurred and the citizen wished to withdraw the complaint, the case was ADMINISTRATIVELY CLOSED.

CPC 187-15 – A citizen stated that she witnessed an APD officer run a red light. The police vehicle did not have lights or sirens on. A review of the complaint revealed that the officer had been responding to a fight in progress. The citizen indicated she would be satisfied with the officer's supervisor speaking to the officer about safely operating a police vehicle. The officer's Sergeant spoke with him about the importance of following

SOP while driving his vehicle. The citizen was satisfied with the informal handling of the complaint, and so it was ADMINISTRATIVELY CLOSED.

CPC 202-15 – A citizen complained that an APD officer had used his air horn to get the citizen to pull out of the spot he was in to pick up his child from school, only to have the officer take his spot, pick up his own child, and drive away. Numerous attempts were made by the CPOA to contact the officer and his supervisor. It was eventually discovered that both the officer and the supervisor had retired. Since the CPOA lacks jurisdiction to investigate complaints against former APD officers, this case was ADMINISTRATIVELY CLOSED.

CPC 207-15 – A citizen complained of misconduct on the part of a Bernalillo County Sheriff's Officer. Since the CPOA has no jurisdiction to investigate complaints against BCSO, the case was ADMINISTRATIVELY CLOSED.

CPC 218-15 – A citizen alleged that a 911 operator had been rude, argumentative, and disrespectful when she'd called to file a report. The operator's supervisor reviewed the call and determined that the operator did not handle the call appropriately. The supervisor addressed the operator's attitude, issued a counseling memorandum, and reviewed policy with the operator.

CPC 221-15 – A citizen alleged that an APD officer had kicked him while he was lying down in a park. He stated that he already has a lawsuit against the city. Efforts were made by the CPOA to identify the officer in the complaint. No officers who were assigned to the area on the date of the incident matched the description given by the citizen. Due to a lack of information in this case, it was ADMINISTRATIVELY CLOSED.

CPC 225-15 – A citizen complained that she witnessed an APD officer speeding without service lights engaged, and that when she asked the officer if he was running code, the officer responded rudely to her. The CPOA exhausted every lead in trying to identify the officer, but without further information the agency is unable to conduct an investigation. This case was administratively closed.

CPC 226-15 – An employee with APD Records Division filed a complaint regarding an incident in which an irate customer had threatened to file a complaint on the employee and other staff. The employee had already filed a complaint with Internal Affairs. Because filing a complaint on behalf of a citizen is invalid, the CPOA ADMINISTRATIVELY CLOSED this case.

CPC 229-15 - An emailed complaint was received allegedly from a Judge of the Metropolitan Court. The complaint stated Officer B posted inappropriate content about the Judge on Facebook in response to a news story. The CPOA Investigator spoke to the Judge, who stated that the complaint did not come from him, and that he was unconcerned with the comment and did not wish to file a complaint. This case was ADMINISTRATIVELY CLOSED.

XIII. Other Business:

- A. The Board discussed hearing complaints at the beginning of the POB meeting since as it gets later most community members have already left. A shorter synopsis can be read and a brief description of the SOP would be adequate. In future meetings, the Board will hear cases directly after public comments in order to have more of the public present during that time.
- B. Board members need to make sure to do their ride-along with APD.
- C. The POB will select a new Chair at the next POB meeting.
- D. Board Member Cruz reiterated the following action items:
 - 1. The CPOA will post IPRA emails as soon as possible.
 - 2. Director Harness will present a quarterly budget report.
 - 3. Board members will email Member Baca or Amanda Bustos with their comments on the brochure draft.

XIV. Adjournment: Member Baca moved to adjourn the meeting. Board Member Cruz seconded the motion. Passed. For: Waites, Cruz, Baca, Brown, Wilson, Ring, Fine, and Mohr. The meeting adjourned at 9:24 p.m.

- Next regularly scheduled POB meeting will be on Thursday, February 11, 2016 at 5 p.m. in the Vincent E. Griego Chambers.

APPROVED:


Leonard Waites, Chair
Civilian Police Oversight Agency

2/11/16
Date

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

"Attachment A"

STATEMENT RE OWENS LETTER

We now address the letter sent to the Board by James Owens, which alleges violations of the Open Meetings Act by the Board. Generally, Mr. Owens's letter expresses concern that certain email correspondence among Board members violated the Open Meetings Act because the emails were circulated to a quorum of Board members. To address his concerns, counsel has reviewed the Board members' emails that were produced in response to several requests under the Inspection of Public Records Act. Some emails from Board members were circulated to a quorum of the Board. These emails include emails addressed to an email address – pob@cabq.gov – which automatically forwards emails sent to that address to each member of the Board. This email address was created as a result of a settlement involving the Board's predecessor, the Police Oversight Commission. It appears that some members of the Board copied this email address on emails discussing Board business under the mistaken impression that the address was a repository to preserve emails for public records requests. We have found no emails from Board members circulated to a quorum of Board members after September 3, 2015.

The Board is committed to conducting its business in accordance with our state's strong commitment to open government. Not only are the Board's meetings broadcast on Gov TV, but archives of the video of the meetings are available on the Board's website. In addition, the Board has retained counsel experienced in open government matters. The Board also made a special request to the New Mexico Foundation for Open Government for a training session to the Board on the Open Meetings Act, and that training took place on April 29, 2015. Finally, after receiving Mr. Owens's letter, Board counsel contacted the Attorney General's Office to seek guidance.

It is not clear whether any of the Board's email correspondence actually constitutes a violation of the Open Meetings Act. Nevertheless, the Act provides the Board with an opportunity to address a claimed violation by providing "a summary of comments made at the meeting at which the claimed violation occurred." Out of an abundance of caution, I now provide such a summary. The emails address the following:

- Routine correspondence circulating agendas, minutes, and materials to be discussed at upcoming meetings;
- Business cards for the Board members;
- Cancellation of subcommittee meetings;
- A commendation for Officer Sharon Saavedra, who has been invaluable in training the Board on police policy and procedure;
- The proper role and subject matter for the Board's subcommittees;
- The selection process to hire an Executive Director. These emails only discuss process; there is no discussion of individual candidates;
- Document management for meetings;
- The protocol to responding to citizen emails regarding public records requests;
- Emails to, and occasionally about, staff: requesting information from staff, assigning tasks to staff, thanking staff for tasks performed, and informing staff of the failure to adequately perform assigned tasks and allegations made about a

particular staff member. These also include emails discussing the division of oversight over the CPOA between the Board and the City;

- Retention of Independent Counsel;
- Retaliation policies;
- How to handle media inquiries;
- The timeline for CPOA review of citizen complaints;
- A meeting between a Board member and two city councilors;
- The ride-along policy for Board members;
- The process for filling the vacancy on the Board after Ms. Sandoval resigned;
- Links to materials for discussion;
- Questions about the CPOA's semi-annual report;
- Appointment of Paul Skotchdopole as Office Manager by Chair Waites to fill the gap before Director Harness came on board;
- Board members announcing that they were resigning or taking a back seat on subcommittees to focus on either other subcommittees or the Board as a whole; and
- Finally, there are numerous emails reflecting the Board's efforts to comply with the Open Meetings Act.

In his letter, Mr. Owens identifies some of these emails, and while he states that actions taken in violation of the Open Meetings Act are invalid, he has not identified any actions of the Board or its Subcommittees that he contends are invalid. Under the Act, all actions are entitled to a presumption of validity, and while we will certainly make every effort to address any invalid action, we cannot reverse that presumption and assume that any of the Board's prior actions are invalid. It is therefore inappropriate for us to revisit any previous Board action at this time.