



## CIVILIAN POLICE OVERSIGHT AGENCY BOARD

Thursday, January 9, 2020 – 5:00 PM  
Vincent E. Griego Chambers, Basement Level  
City/County Government Center – One Civic Plaza NW  
Albuquerque, New Mexico

### Members Present:

Chantal M. Galloway, Chair  
Joanne Fine, Vice-Chair  
Dr. William Kass  
Eric Olivas  
Tara Armijo-Prewitt  
Leonard Waites

### Members Absent:

### Others Present

Edward Harness, CPOA  
Katrina Sigala, CPOA  
Tina Gooch, Atty  
Julian Moya, City Council  
Cdr. Zak Cottrell, APD  
Lt. Ken Johnston, APD  
Deputy Chief Eric Garcia, APD  
Lt. Ferris Simmons, APD  
Lindsay Van Meter, Asst. City Atty

### Meeting Minutes

- I. **Welcome and call to order.** Chair Galloway called to order the regular meeting of the Civilian Police Oversight Agency Board at 5:01 p.m.
- PO Box 1293 II. **Pledge of Allegiance.** Vice-Chair Fine led the meeting in the Pledge of Allegiance.
- Albuquerque III. **Mission Statement.** Chair Galloway read the Civilian Police Oversight Agency Board's mission statement.
- NM 87103 IV. **Approval of the Agenda.**  
a) **Motion.** Motion by Member Olivas to approve the agenda as drafted. Motion passed.
- www.cabq.gov V. **Public Comments.**  
a) **Michael Parrish**
- VI. **Review and Approval of Minutes.** For more information about minutes from prior CPOA Board meetings, please visit our website here:  
<http://www.cabq.gov/cpoa/police-oversight-board/pob-agenda-meeting-minutes>  
a) **Approval of the Minutes from December 12, 2019**  
1. Copies of the draft minutes from the December 12, 2019 Civilian Police Oversight Agency Board meeting were distributed to each member in their packets.

2. **Motion.** A motion made by Member Dr. Kass to add to the minute's confirmation that nothing other than the appeal of CPC 132-18 was discussed during the closed session under agenda item XII. Motion passed.
3. **Motion.** A second motion to approve the minutes as amended. Motion passed.

**VII. Reports from City Staff**

- a) **APD – Commander Zak Cottrell with Internal Affairs-Professional Standards and Lt. Ken Johnson with Internal Affairs-Force Division gave the following reports for APD:**
  1. **Statistical Data.** Commander Cottrell read the Statistical Data for the month of December 2019. A document titled *Police Oversight Board, APD Internal Affairs: Statistical Data for the Month of December 2019* was distributed to the CPOA Board members. (see attached)
  2. **Statistical Data –** Lt. Johnson read the Statistical Data for the month of December 2019. A document titled *Civilian Police Oversight Agency Board, Internal Affairs Force Division: Statistical Data for the month of December 2019.* (see attached)
- b) **City Council –**
  1. **City Council Representative –** Julian Moya presented his report.
- c) **Mayor's Office-**
  1. There was no one from the Mayor's Office present to give a report.
- d) **City Attorney-**
  1. **City Attorney –** Lindsay Van Meter presented her report.
- e) **Community Policing Council**
  1. **CPC Representative.** Lt. Ferris Simmons presented her 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.

**VIII. Reports from Subcommittees**

- a) **Community Outreach Subcommittee – Joanne Fine –**
  1. Next meeting January 28, 2020 at 4:15pm
- b) **Policy and Procedure Review Subcommittee – Dr. William Kass–**
  1. Met January 2, 2020 at 4:30pm.
  2. Next meeting February 6, 2020 at 4:30pm.
- c) **Case Review Subcommittee –Joanne Fine –**
  2. Next meeting TBD

**d) Personnel Subcommittee – Chantal Galloway-**

2. Next meeting TBD

**IX. Discussion and possible action**

**a) 2018 Semi-Annual Report January - June**

1. The Board will review and will be placed on next month's agenda.

**b) 2018 Semi-Annual Report July – December**

1. The Board will review and will be placed on next month's agenda.

**c) Board's Use of Legal Counsel**

1. **Motion.** Motion by Member Olivas to restrict the use of legal counsel by individual members of the board. No member (including the board chair and subcommittee chairs) shall contact or solicit the advice of board contracted legal counsel without the consent of the full board in a properly noticed public meeting. As of this time, legal counsel shall not participate in any meetings other than meetings of the full board and subcommittee meetings of the personnel committee, if requested in advance by the chair of the personnel subcommittee. Legal counsel may participate in other subcommittee meetings if requested and authorized by the full board in a properly noticed public meeting. The executive director shall maintain the authority to request legal opinions or legal advice on behalf of the board or agency as needed. This motion shall remain in effect until rescinded by the board, with the expectation that this shall occur when a full policy on the use of contract legal counsel by the board and its individual members is adopted and implemented by the board. Member Olivas withdrew his motion.

2. **Motion.** Motion by Member Dr. Kass to table the motion. Motion passed.

3. **Motion.** Motion by Member Olivas to ask the executive director for a full report on the historical use of contract legal counsel by both the board and agency. The director shall also make recommendations to the board on developing a policy to effectively utilize and appropriate the use of contract legal counsel by the board and agency. Motion passed.

--- Dinner break began at 6:24 p.m. and  
reconvened at 6:57 p.m. ---

**d) Board's Use of Force Review Process.**

1. Member Dr. Kass proposed a use of force process. And the topic will be considered by the case review subcommittee. (see attached)

**e) SOP's in Findings Letters**

- 1. Motion.** Motion by Member Armijo-Prewitt that all finding letters issued to complainants include the relevant policy or policy numbers, as well as the text from those SOP's the wording included in them, and if there are no relevant policies, or if a preliminary investigation determines a case can be administratively closed without a review of relevant SOP's, then information be included in the finding letters. Member Armijo-Prewitt withdrew her motion.
- 2. Motion.** Motion by Member Dr. Kass to table this item. Motion passed.

**f) Confirmation that December 12, 2019 closed session to discuss appeal of CPC 132-18 was held pursuant to NMSA 1978, Section 10-15-1(H)(3) and that nothing other than that appeal was discussed during that closed session.**

1. The board members present at the December 12, 2019 meeting gave a verbal confirmation of the accuracy of this discussion item.

**g) Subcommittee appointments**

1. Chair Galloway assigned members to subcommittees. (see attached)

**h) Vice-Chair vacancy**

- 1. Motion.** Motion by Member Waites to leave the vacancy for the Vice-Chair. Motion passed.

**i) Board's presentation at February 11, 2020 Status Conference**

- 1. Motion.** Motion by Member Dr. Kass to authorize Legal Counsel to contact the appropriate Stakeholders with the idea of presenting this proposal to the court on how we proceed the review the IMR draft and report to the Chair on the progress and present this plan to the court. Motion passed.
- 2. Motion.** Motion by Member Olivas that our Counsel or presenters simply inform the court that through the policy and procedures subcommittee, the board is working on clarifying member expectations of conduct, and working to further develop a process to enforce member expectations and conducts. Motion passed.
- 3. Motion.** Motion by Member Olivas to authorize the Chair to finalize a letter to the court indicating our work on member conduct expectations and the process for that, as well as our delegation of our authority to our Counsel to work on our behalf to gain access to the IMR draft. Motion passed.

**j) Subcommittee Operations.**

- 1. Motion.** Motion by Member Olivas to insert the following to board procedures: All subcommittee meetings shall be called to order at the time scheduled on the announced agenda unless a quorum is not present. A subcommittee meeting shall be automatically adjourn if a quorum is not present within 10 minutes of the announced time of the meeting. Motion passed.
- 2. Motion.** A second motion by Member Olivas to add under Article 3 Section 3 (I) in the Policy and Procedures. Motion passed.

**k) Invitation to the Chief to report on Staffing.**

**1. Motion.** Motion by Member Olivas that the board hereby directs the executive director to author and send an invitation on behalf of the board to invite the chief to speak before the board during the regularly scheduled March meeting. The general intent of this invitation is to request a report from the Chief on department staffing practices and turnover. Specifically, it is the interest of the board to understand the high turnover rate among senior level staff (Commander and above). The board also requests the chief discuss staffing differentials between different areas of the department, specifically the difference in the number of detectives (and the experience level of those detectives) assigned to the compliance bureau vs. those in other areas including, but not limited to: homicide, gangs, narcotics, and CACU. Motion passed.

**X. Agenda Cases:** The CPOA's findings in each case listed on the consent agenda are reviewed and approved by the CPOA Board. The findings become part of the officer's file, if applicable. Copies of the full findings letters to the citizens are located at.

**a) Administratively Closed Cases**

074-18            196-19            213-19            226-19            234-19  
238-19            239-19            249-19

**1. Motion.** Vice-Chair Fine motioned to advance all Administratively Closed Cases as written. Motion passed.

**b) Unfounded**

059-19            178-19            204-19            218-19            219-19  
221-19            235-18            245-19

**1. Motion.** Vice-Chair Fine motioned to advance all Unfounded cases as written. Motion passed.

**c) Not Sustained**

115-19

**1. Motion.** Vice-Chair Fine motioned to advance the Not Sustained case 115-19 as written. Motion passed.

**XI. Other Business.**

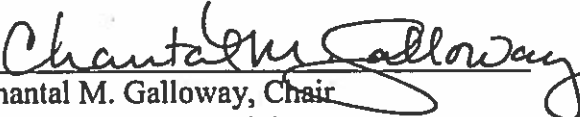
1. Farewell to Vice-Chair Fine.

**XII. Adjournment** – A motion was made by Vice-Chair Fine to adjourn the meeting.

The meeting adjourned at 8:42pm

*Next Regularly scheduled POB meeting will be on February 13, 2020 at 5:00 p.m. in the Vincent E. Griego Chambers.*

APPROVED:

  
Chantal M. Galloway, Chair  
Civilian Police Oversight Agency

2/13/2020  
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: 1/9/2020

NAME (PLEASE PRINT)

1. MICHAEL PARROTT

13. \_\_\_\_\_

2. \_\_\_\_\_

14. \_\_\_\_\_

3. \_\_\_\_\_

15. \_\_\_\_\_

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23. \_\_\_\_\_

12. \_\_\_\_\_

24. \_\_\_\_\_



**POLICE OVERSIGHT BOARD**

**INTERNAL AFFAIRS PROFESSIONAL STANDARDS DIVISION  
STATISTICAL DATA FOR THE MONTH OF DECEMBER 2019**

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APD 911 Communications Center  
Dispatched calls for Service for DECEMBER 2019:  
**39,099 (INCREASE from NOVEMBER (2,233))**

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**INTERNAL CASES FOR THE MONTH OF DECEMBER 2019**

Total Internal Cases Completed in the month of DECEMBER;  
Comprised of:

**9 completed cases (sent out to the area command)**

1. IA Cases opened in the month of DECEMBER 2019: 6
  2. Pending IA Cases for the month of DECEMBER 2019: 7
  3. Administratively Closed for the month of DECEMBER 2019: 9
  4. Internal Cases Mediated: 0
- 

**DISCIPLINE IMPOSED FOR INTERNAL CLOSED CASES IN DECEMBER 2019**

**1: Termination-Conduct/Alcoholic Beverages and Controlled Substances**  
**1: Letter of Reprimand-Using the OBRD**

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**EIRS FOR DECEMBER 2019: 74 alerts distributed (Overall and Incident type alerts)**

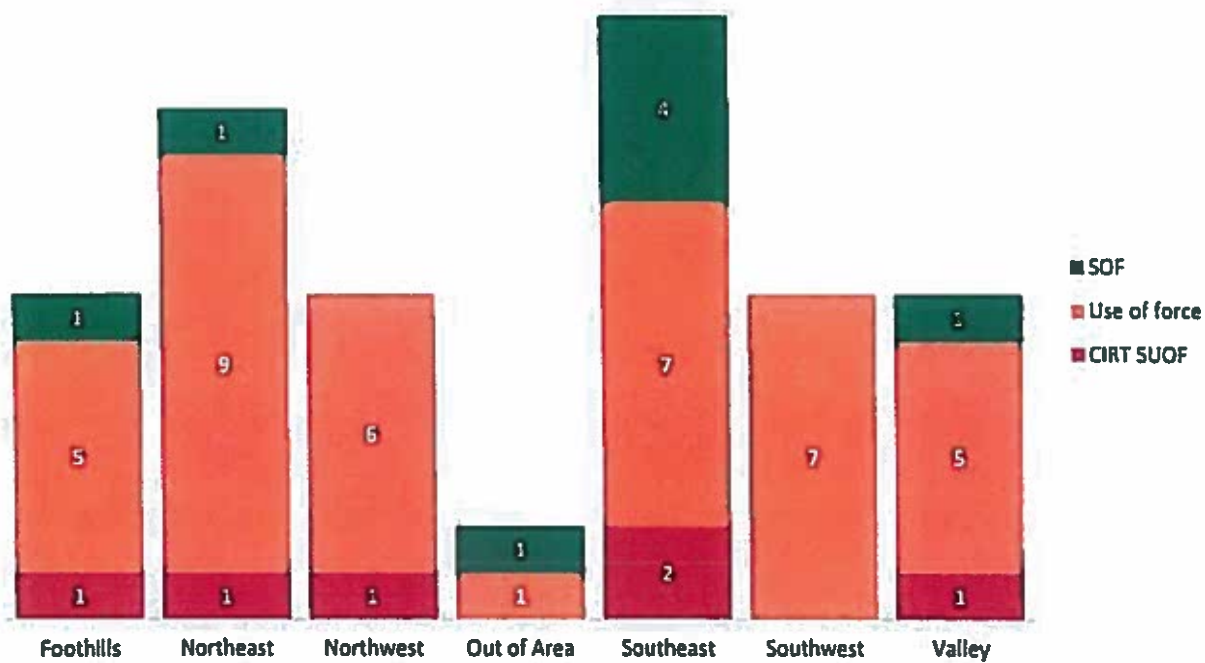
**Civilian Police Oversight Agency Board**  
**INTERNAL AFFAIRS FORCE DIVISION**  
**STATISTICAL DATA FOR THE MONTH OF December 2019**

**INCIDENT AREA COMMAND**

Area Command	CIRT SUOF	Use of force	SOF	Grand Total
Foothills	1	5	1	7
Northeast	1	9	1	11
Northwest	1	6		7
Out of Area		1	1	2
Southeast	2	7	4	13
Southwest		7		7
Valley	1	5	1	7
<b>Grand Total</b>	<b>6</b>	<b>40</b>	<b>8</b>	<b>54</b>

If one case number is associated with more than one force type it is classified according to the most serious type where CIRT SUOF > UOF > SOF.

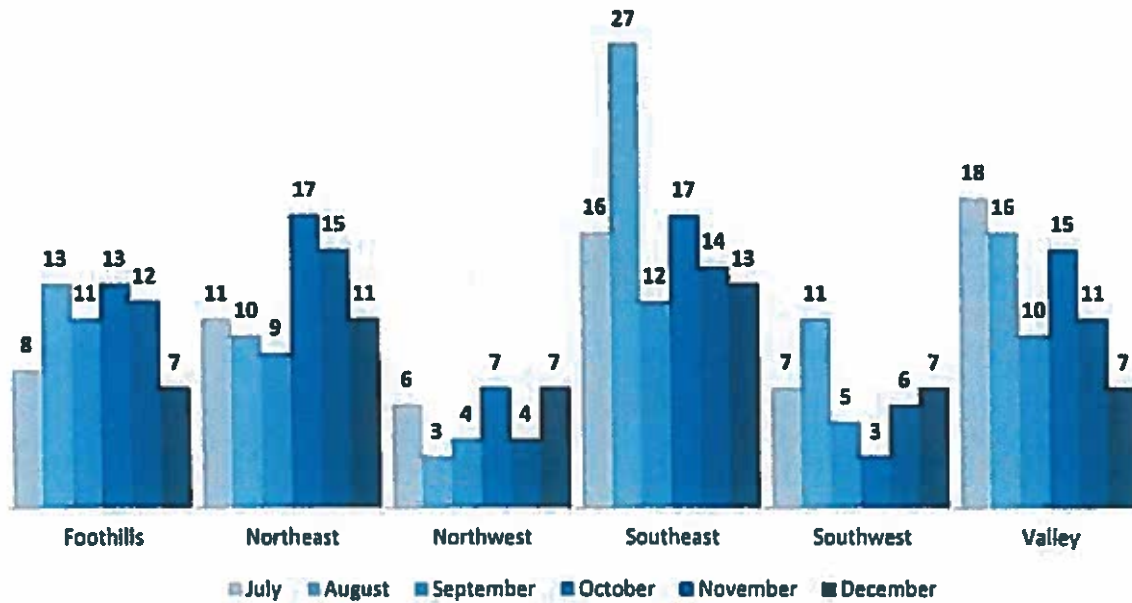
**December 2019 Force Events**



**Civilian Police Oversight Agency Board**  
**INTERNAL AFFAIRS FORCE DIVISION**  
**STATISTICAL DATA FOR THE MONTH OF December 2019**

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**Six Months of Force Data**



## CPOA Board review process

### Introduction

This is intended to be a draft of a process the CPOA Board could use in reviewing upcoming use-of-force cases potentially dating back several years. The document consists of three parts

1. Reference materials that I think are relevant to understanding the authority the board has to review use-of-force cases and the guidance they are directed to follow; the APD SOPs associated with use-of-force; and the APD SOPs associated with the processes for reviewing use-of-force.
2. A compilation of the information that APD IAFD and the FRB will furnish the Board for specific cases
3. CPOA review process, where I have included a set of questions that I brainstormed. I think the Board should systematically link its review to the forms that APD provides the Board. We should also collectively decide on our objectives for use-of-force reviews. I have made some suggestions in this section.

I would like to place a discussion of this draft use-of-force review process on the agenda for the January 9 meeting so that we can begin to create a Board-agreed process for review in advance of our first use-of-force review. This document should be regarded as a draft that will require a great deal of refinement and vetting to be applied to use-of-force reviews.

### Reference materials:

SOP 2-52 Use-of-force  
(SOP included in 12/16/19 training manual)

*Policy: The Department values the sanctity of human life and is committed to protecting people, their property, and their rights. It is the policy of the Department to de-escalate situations without using force when possible. Officers must remain mindful that they derive their authority from the United States Constitution, federal and state Laws, and the community. Unreasonable force degrades the legitimacy of the officer's authority. Therefore, officers shall only use force that is objectively reasonable minimum amount of force necessary objectively reasonable based on a totality of the circumstances the officer is confronted with in order to effect an arrest or protect the safety of the officer or another person. Department policy and training requires that officers not only follow the legal standard of using force, which was established in Graham v. Connor, 490 U.S. 386 (1989), but also strive to utilize the in order to bring about their lawful objectives. This policy is not intended to limit the lawful authority of Department officers to use force or otherwise to fulfill their law enforcement obligations under the Constitution and laws of the United States and the State of New Mexico.*

*The Department allows for certain classifications of civilian employees to carry firearms and less-lethal force weapons while on duty, including electronic control weapons and oleoresin capsicum. Civilian employees have no power of arrest and therefore may only use force consistent with New Mexico law on self-defense or defense of others.*

This SOP is 13 pages long and contains detailed directives to field officers as well as lists of questions that officers should ask (sometimes to themselves) to determine if force is necessary and what level of

force should be applied. This policy is the primary standard against which officers' actions are judged and is the most important SOP in the use-of-force suite. .

**SOP 2-53 Electronic Control Weapons**  
(SOP included in 12/16/19 training manual)

*It is the policy of the Department to de-escalate situations without using force when possible. Department policy and training require that officers not only follow the constitutional standard, which was established in *Graham v. Connor*, 490 U.S. 386 (1989), but also strive to utilize the minimum amount of force necessary in order to achieve their lawful objectives.*

**SOP 2-54 Use-of-force reporting and supervisory force investigations**  
(SOP included in 12/16/19 training manual)

*This policy is intended to supplement SOP 2-52 – Use of Force by expanding on the expectations regarding use of force reporting and supervisory force investigations. All definitions in SOP 2-55 – Use of Force Appendix apply to this policy. It is the policy of the Department to accurately document uses of force and to conduct timely, thorough, and objective investigations of uses of force. Supervisors and specialized force investigation units shall investigate uses of force in accordance with the Department's classification system.*

**SOP 2-55 Use-of-force appendix**  
(SOP included in 12/16/19 training manual)

*This appendix is intended to supplement SOP 2-52 - Use of Force, SOP 2-53 - Electronic Control Weapon , and SOP 2-54 - Use of Force Reporting and Supervisory Force Investigation by clarifying and outlining all definitions related to the use of force policy suite. This appendix will also specify the minimum basic training requirements for various use of force options authorized by the Department. These requirements shall be reviewed and updated concurrently with changes made by the New Mexico Department of Public Safety (NMDPS).*

**SOP 2-56 Use-of-force reporting by department personnel**

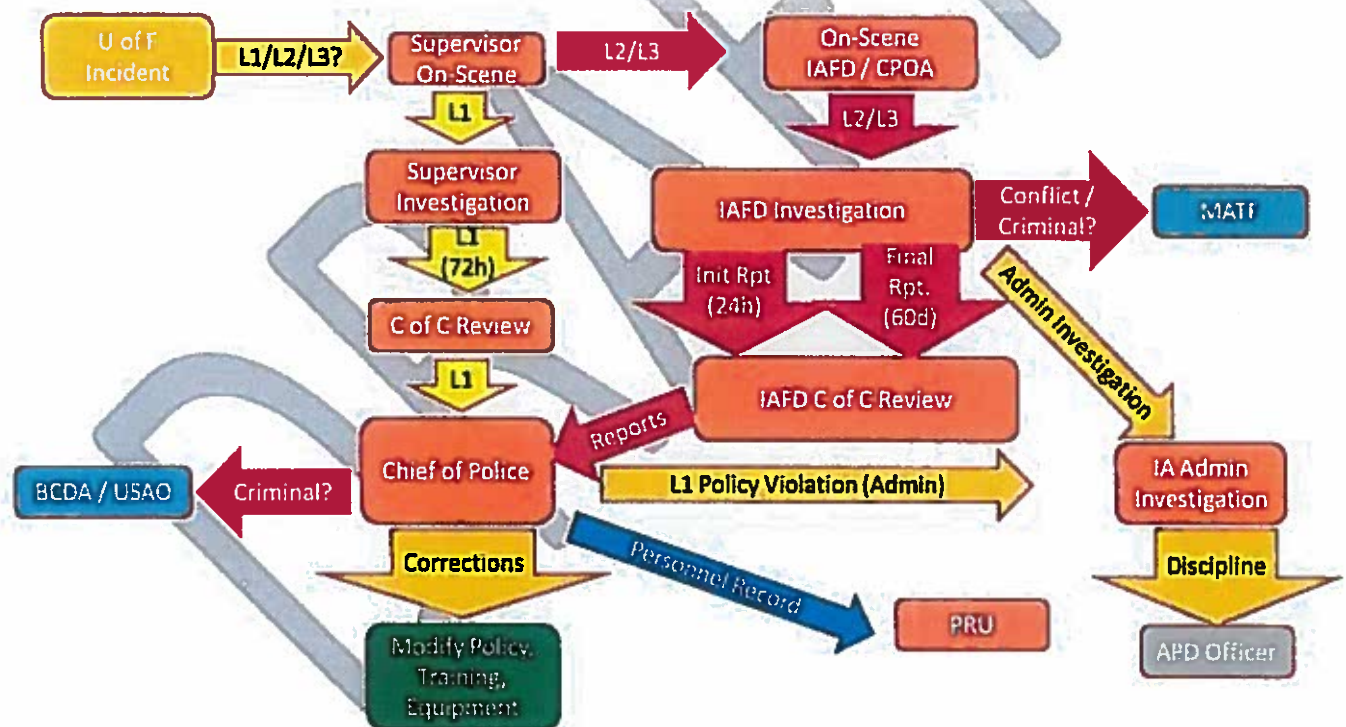
*This policy sets forth the responsibilities of all Department personnel to report use of force against an individual, whether an officer is witness to a use of force or involved in a use of force, so that reviewers and investigators can determine whether such force was reasonable, necessary, and proportional based on the totality of the circumstances confronting the officer. The Department shall hold officers accountable for the immediate reporting of use of force in order to facilitate the review and investigation of such incidents. The Department shall require officers witnessing or learning about use of force by another officer to completely, thoroughly and accurately report such incidents to the appropriate supervisor.*

SOP 2-57 Use-of-force review and investigation by Department personnel

(As of Dec 31, this SOP has not been re-released after being withdrawn for review editing. An earlier version of this SOP is available, review date of October 2018)

*This policy sets forth the responsibilities of all Department personnel to report use of force against an individual, whether an officer is witness to a use of force or involved in a use of force, so that reviewers and investigators can determine whether such force was reasonable, necessary, and proportional based on the totality of the circumstances confronting the officer. The Department shall hold officers accountable for the immediate reporting of use of force in order to facilitate the review and investigation of such incidents. The Department shall require officers witnessing or learning about use of force by another officer to completely, thoroughly and accurately report such incidents to the appropriate supervisor.*

This SOP is the basis for the training we received from IAFD. IAFD created a robust methodology for organizing and evaluating the use-of-force and its review against policy and training. I have created a flow chart for the steps in the review process called out in SOP 2-57, shown below.



SOP 2-58 Force Review Board

(Full SOP available – release date: 5 Dec 19)

Other SOPs referred to in SOP 2-58 are SOP 2-20 Hostage situations, barricaded Individuals and tactical threat assessments, SOP 2-52, SOP 2-53, SOP 2-54, SOP 2-55.

**SOP 2-58-2 Policy:**

*The Department conducts reviews and evaluations of all Level 3 use of force (formerly known as serious use of force) investigations; a 10 percent (10%) sample of all Level 2 use of force investigations; and all specialized tactical deployments in an effort to maintain high-quality investigations and adherence to best practices. The Department ensures that use of force investigations are complete and supported by the preponderance of the evidence.*

*The FRB will identify and report concerns, deficiencies, and/or successes found in use of force investigations and tactical activations. Quarterly updates regarding concerns, deficiencies, referrals to the Internal Affairs Professional Standards (IAPS) Division, and/or successes will be sent to the Training Academy as part of a needs assessment for future use of force training.*

*When the FRB identifies concerns, deficiencies, and/or successes, it shall make a referral or referrals to the appropriate bureau or division for resolution. This may include modifying equipment, policy, training, tactics or supervision.*

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

We will get the benefit of the Force Review Board assessment of the use-of-force cases that we are presented with. I suggest that one or more board members attend a session of the force review board as an observer. This will give us some first-hand information regarding how they follow their process and allow us to speak to the credibility of their findings.

SOP 7-3 Force Investigation Team.

(Release date 7 Jun 16 copy is available)

This SOP governs the use-of-force review process, FIT refers to the officers assigned to this unit who have developed the use-of-force review methodology. The SOP also contains some useful definitions and mentions the role of the CPOA in the investigative process.

*SOP 7-3-The primary objective of the FIT is to provide the Albuquerque Police Department (APD) with a standardized professional, comprehensive, and neutral criminal investigative response into an underlying crime when an APD officer is involved in a serious use of force or an officer-involved shooting or when an APD officer has custody of a person who dies while in police custody. FIT also provides comprehensive and neutral criminal investigations of any OIS or in-custody death in addition to any underlying crime that may be investigated. Should an investigation of an underlying crime where an officer employed a serious use of force show, based upon probable cause, that the force used by the officer involved in the incident was contrary to law, the FIT assumes case responsibility for that criminal investigation as well.*



*By partnering with other agencies in an agreement known as the Multi-Agency Task Force (MATF), the FIT promotes accountability, shares investigative techniques and resources, and produces a fair, impartial, and highly-professional investigation. The FIT will ensure quality control in its investigations and provide the professionalism required in constitutional policing and accountability to the community.*

*Administrative investigations of the use of force in the incidents where FIT is responsible for the criminal investigation are conducted by CIRT or the Internal Affairs Section. See the CIRT and Internal Affairs Section SOP.*

#### **Court Authorized Settlement Agreement**

Using smartcasa.org, a search for 'use-of-force' returns 127 paragraph that contain the term beginning with paragraph 14.

Paragraph 15 'Use-of-force policy requirements' requires that "APD shall develop and implement an overarching agency wide use-of-force policy that complies with applicable laws and comports with best practices"

#### **Paragraph 42 Force Reporting policy**

*The use of force reporting policy shall require all officers to provide a written or recorded use of force narrative of the facts leading to the use of force to the supervisor conducting the review or the APD officer conducting the investigation. The written or recorded narrative will include:*

- (a) a detailed account of the incident from the officer's perspective;*
- (b) the reason for the initial police presence;*
- (c) a specific description of the acts that led to the use of force, including the subject's behavior;*
- (d) the level of resistance encountered; and*
- (e) a description of each type of force used and justification for each use of force. Officers shall not merely use boilerplate or conclusory language but must include specific facts and circumstances that led to the use of force.*

#### **Paragraph 48 Force Classification Procedures**

*APD agrees to develop and implement force classification procedures that include at least three categories of types of force that will determine the force review or investigation required. The categories or types of force shall be based on the level of force used and the risk of injury or actual injury from the use of force. The goal is to promote greater efficiency and reduce burdens on first-line supervisors, while optimizing critical investigative resources on higher-risk uses of force.*



City Ordinance creating CPOA

Page 4 of the ordinance:

*Promotion of Accountability and Impartiality. The CPOA shall promote a spirit of accountability and communication between the civilians and the Albuquerque Police Department while improving community relations and enhancing public confidence. The CPOA shall also promote a spirit of impartiality in its review of police conduct, and shall ensure that officer conduct is judged fairly and objectively.*

Page 9 of the Ordinance:

*...A demonstrated ability to engage in mature, impartial decision making; and a commitment to transparency and impartial decision making; ...*

CPOA Policies and procedures

*Required On-Going Training. Board members shall receive eight hours of annual training on any changes in law, policy, or training, as well as developments in the implementation of the 2014 DOJ Settlement Agreement (or any subsequent agreements) until such time as the terms of the agreement are satisfied. Board members shall also receive annual training on Roberts' Rules of Order (latest addition) and general meeting conduct and operation.*

**Serious Use of Force and Officer Involved Shootings.**

*A. The Executive Director shall receive all APD reports of serious uses of force and officer involved shootings. The Executive Director shall timely review these materials and assign them for investigation or review by the Investigative staff.*

*B. The Executive Director will oversee, monitor, and review all investigations or reviews of serious uses of force and officer-involved shootings, and make findings for each. All findings will be made available to the public on the CPOA website as soon as practicable.*

*C. Before taking action related to a serious use of force or officer involved shooting, the Executive Director shall confer with the relevant prosecuting agency and/or federal law enforcement agency to assess the likelihood of an officer being criminally prosecuted based on the incident. The Executive Director may delay or decline to proceed with any action related to a serious use of force or officer involved shooting until completion of the criminal investigation unless, after consultation with the prosecuting agency, the Executive Director determines that proceeding is appropriate and will not compromise a criminal investigation. If the Executive Director seeks to proceed with investigating or presenting to the Board a serious use of force or officer involved shooting despite a prosecuting agency or federal law enforcement agency indicating that doing so would interfere with a criminal investigation, the Executive Director only may proceed after obtaining approval to do so through a 2/3 vote of the Board.*

## Conduct and Ethics Standards for Board Members

The following is excerpted from the NACOLE Code of Ethics

### **INDEPENDENT AND THOROUGH OVERSIGHT**

*Conduct investigations, audits, evaluations and reviews with diligence, an open and questioning mind, integrity, objectivity and fairness, in a timely manner. Rigorously test the accuracy and reliability of information from all sources. Present the facts and findings without regard to personal beliefs or concern for personal, professional, or political consequences.*

### **TRANSPARENCY AND CONFIDENTIALITY**

*Conduct oversight activities openly and transparently, providing regular reports and analysis of your activities, and explanations of your procedures and practices to as wide an audience as possible. Maintain the confidentiality of information that cannot be disclosed and protect the security of confidential records.*

### **RESPECTFUL AND UNBIASED TREATMENT**

*Treat all individuals with dignity and respect, and without preference or discrimination including, but not limited to: age, ethnicity, citizenship, color, culture, race, disability, gender, gender identity, gender expression, housing status, marriage, mental health, nationality, religion, sexual orientation, socioeconomic status, or political beliefs, and all other protected classes*

The following is excerpted from the section on review of citizen complaints but seems to apply to review of use-of-force cases as well.

## **6. Board Review.**

*A. The Board shall review the proposed findings and recommendations at any properly noticed regular or special meeting.*

*B. For its reviews of the proposed findings and recommendations, the Board shall:*

*(1) Remain impartial in deliberations and decisions and abstain from any independent investigation or review of information not presented by the investigation report or within the investigation file;*

*(2) Refrain from any ex-parte communication relating to the matters and parties under consideration other than at a properly noticed meeting, and recuse from any related hearings as may be necessary based on any improper ex parte communication; any ex-parte correspondence that is inadvertently received by a member shall be referred to or otherwise disclosed to the Director and, when appropriate, made available for review by the relevant complainant and APD officer or their representatives; and*

*(3) Refrain from prejudgment on complaints coming before the Board until such time as all relevant information has been reviewed and considered at a properly noticed meeting, and recuse from any hearing in which he or she has a direct or indirect personal conflict of interest or cannot otherwise accord a fair and impartial review, or in which such member's participation would create the appearance of impropriety or partiality.*

***(4) For purposes of these Policies and Procedures, "ex parte communication" is defined as a communication (whether written or oral), outside of the public meeting process outlined herein, between a member or members of the Board and any member of the public regarding the merits of a civilian complaint or the proposed findings and recommendations under review by the Board. Communications between a member or members of the Board and the staff or attorneys of the CPOA shall not be considered ex parte communications provided that such communications are not relied upon to make factual determinations by a member or members of the Board.***

***J. With regard to any request for reconsideration that has been filed with and is pending before the Board:***

***(1) No Board member shall communicate outside a hearing with the complainant or the complainant's representative.***

***(2) No Board member shall knowingly communicate with a member of the public or an organization about the subject of the request for reconsideration. Information and correspondence that is not in the record at the time the request for reconsideration is submitted only may be considered in making a decision if it is accepted as new evidence as set forth above.***

***(3) No Board member shall conduct their own investigations or add their own evidence to the record regarding any hearings on requests for reconsideration.***

***(4) Any correspondence regarding the subject of a request for reconsideration that is an ex parte communication and is inadvertently received by a Board member shall be delivered to the CPOA Executive Director and be available for review by the complainant.***

***(5) Notwithstanding the above, the CPOA Executive Director and CPOA staff may, upon the request of a Board member, communicate with that Board member at any time and by any means. Copies of any written materials from the CPOA Executive Director shall be distributed to all parties.***

***(6) Board members shall remain impartial in deliberations and decisions and shall recuse from any related hearings as may be necessary based on receipt of improper ex-parte communications or in which he or she has a direct or indirect personal conflict of interest or cannot otherwise accord a fair and impartial review, or in which such member's participation would create the appearance of impropriety or impartiality.***

***K. Upon close of the hearing on a request for reconsideration, the Board may modify or change the findings and/or recommendations of the public record letter and may make further recommendations to the Chief regarding the findings and/or recommendations and any discipline the Chief has imposed or proposed. Decisions on requests for reconsideration shall be determined by a majority of the Board members present. If the vote ends in a tie, the original findings and recommendations remain in place.***

**Parliamentary Procedure**

Since a primary function of use-of-force reviews is to satisfy the community that the use-of-force was justified and within policy, it is important that our own review follow a deliberative process.

**Review Information furnished by APD**

IAFD materials presented 12/16/19 categorized 'Practical'

State of NM Uniform Incident report	
Supplemental report	
Pre-booking worksheet	
Analysis tables	
	Pre-contact
	Initial contact
	Pat down
	ECW...

**Data Narrative (DN)**

Part 1	Incident information
Part 2	All on scene steps
Part 3	Civilian witnesses
Part 4	Summary of Interviews gathered by the investigator
Part 5	Description of injuries and medical aid to any persons involved
Part 6	Transporting the subject of force
Part 7	Weapons used
Part 8	Video Evidence and report review
Part 9	Catalog of evidence
Part 10	Signature and verification

**Backlog Review of force investigative findings and evaluative narrative (BR)**

Part 1	Investigative findings
Part 2	Initial contact with the subject, resistance and the use-of-force
Part 3	De-escalation
Part 4	Objectively reasonable force: Graham Factor Evaluation
Part 5	Lawful objectives and minimum amount of force
Part 6	Objectively reasonable force: APD SOP evaluation
Part 7	Conclusion
Part 8	Discrepancies
Part 9	Additional Concerns
Part 10	Follow-up
Part 11	Signature and verification

**IAFD Investigative data form (ID)**

Part 1	Incident Information
Part 2	Chief's notification

Part 3	All on scene steps
Part 4	Civilian witnesses
Part 5	Summary of interviews
Part 6	Description of injuries
Part 7	Transporting the individual
Part 8	Force option utilized
Part 9	Video evidence and report review
Part 10	Catalog of evidence
Part 11	Signature and verification

**IAFD evaluative narrative form (EN)**

Part 1	Investigative findings
Part 2	Initial contact
Part 3	De-escalation
Part 4	Objectively reasonable force: Graham Factor Evaluation
Part 5	Lawful objectives and minimum amount of force
Part 6	Policy application
Part 7	Conclusion: Force application
Part 8	Discrepancies
Part 9	Additional Concerns
Part 10	Force and misconduct investigation timeline
Part 11	Final verification
Part 12	Signature and verification

**IAFD First line supervisor force review and sign-off (SR)**

Part 1	findings
Part 2	Additional Concerns: Follow-up
Part 3	Misconduct
Part 4	Trends
Part 5	Review and coaching
Part 6	Signature and verification

**IAFD Lieutenant force review (LR)**

Part 1	Review of Investigative findings
Part 2	Lieutenant Actions
Part 3	Lieutenant's remarks
Part 4	Signature and verification

**IAFD Commander Force Review (CR)**

Part 1	Investigative findings
Part 2	Timelines and Extensions
Part 3	Commander's remarks
Part 4	Signature and verification

**CPOA Review Questions and Findings**

This is a brainstormed list of possible questions related to the above listed forms used by IAFD for their reviews. I have given them a designation (EN, ID, BR, DN, ...) so that we can correlate our questions to the form and part number. We could also divide our questions into general and specific regarding each aspect of the review.

**IAFD review questions**

Question	APD ref	Answer (Y/N)
Was review thorough?		
Were the deficiencies found in this case consistent with those observed in the IAFD review of old test cases?		
What policy violations were observed?		
Were the findings consistent with the evidence?		
Did anything about this review raise flags regarding the thoroughness or consistency of the IAFD review?		
Did IAFD identify supervisory level review deficiencies?		
Were these deficiencies material to the findings of the review?		
Identification of deficiencies and how they affect findings		
Compare findings with video evidence when flags are raised		
Are the deficiencies found from the investigative analysis present in the current case?		
Are the deficiencies relevant to the findings?		
Are the deficiencies properly identified and categorized to recommend additional training, equipment changes or policy modifications?		
Are the deficiencies related to management reviews?		
Does management send a clear picture regarding what needs to change?		
Does management validate the result?		
Did the IAFD investigation raise flags about the management result or about the officer in the field result? Both?		

**FRB Questions**

Question	APD Reference	Answer (y/n)
Was review thorough?		
Was review transparent?		
Did the FRB follow their own process?		

*The FRB shall follow the standards below in evaluating any policy, training, equipment, tactics, or supervisory deficiencies or concerns:*

Question	APD Reference	Answer (y/n)
What were the policy deficiencies identified?		
What were the training deficiencies identified?		
What were the Equipment deficiencies identified?		
What were the tactics deficiencies identified?		
What were the supervisory deficiencies identified?		

**Deficient investigations.**

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

**General Questions**

**What type of call was this?**

APD has data available that has predictive value to determine when a use-of-force is most likely to occur. (e.g. domestic violence, SWAT, Canine use, Hostage situations, ,mental health crises...) We should ask for a ranking by frequency of use-of-force for each type call and use that information to determine whether a use-of-force could have been predicted and possibly prevented.

**CPOA Board Review Objectives**

- **Community safety.** Was this use-of-force necessary to assure community safety?
- **Justice for individual.** Was this use-of-force within policy?
- **Officer safety.** Was the force necessary to protect officer safety?
- **Increase community trust in process findings.**
- **Were the findings of the reviews consistent with the evidence presented?**
- **What were the lessons learned resulting from this use-of-force and how did this change training, policy, ...?**
- **What was learned but resulted in no change?**

**Methods:**

Evaluate transparency, thoroughness, consistency of use-of-force and subsequent review and lessons learned.

**CPOA Review Remarks and Conclusions**

Quesstion	APD Ref	Answer
use-of-force was justified?		
use-of-force was in policy?		
Discrepancies?		
Completeness?		
Transparency?		

# Board committees

## Personnel:

Doug  
Eric  
Bill

## PnP:

Bill  
Eric  
Tara  
Catherine^

## Case review:

Tara  
Chantal  
Catherine\*  
Leonard

## Outreach:

Doug  
Chantal  
Leonard