



# CITY OF ALBUQUERQUE

## Albuquerque Police Department

### Policy and Procedure Unit (P&P)

**MEETING MINUTES: 21-18**

**DATE: October 20, 2021**

**TIME: 08:00 am to 10:00 am**

**VENUE: Zoom Web Conference**

**ATTENDEES:**

Patricia Serna	Policy and Procedure Unit
Officer Tanya La Force	Policy and Procedure Unit
Angelina Medina	Policy and Procedure Unit
Lt. Matt Chavez	Compliance and Oversight Division
Dr. William Kass	Civilian Police Oversight Agency Board (CPOAB)
Edward Harness	CPOA
Trevor Rigler	City Attorney
Judge Sharon Walton	Compliance and Oversight Division Policy Consultant
Ali Abbasi	CPOA
Lt. David Saladin	Academy Division
Stephanie Griego	APD Volunteer Program Coordinator
A/Commander Richard Evans	Internal Affairs Force Division (IAFD)

<b>1. SOP 2-56 Use of Force: Reporting by Department Personnel</b>	Presented by: Acting Commander Richard Evans, Internal Affairs Force Division (IAFD)
Discussion:	A/Commander Evans stated most of the use of force policies when he took over needed cleaning up due to play-by-play in the policy. This is contrary to his philosophy on policy, which is a guide for the quality of how we do our jobs, rather than taking the place of training. He explained he tries to not put training material in policy. There was a lot of material taken out to clean up the policy. The policy is to establish the requirements for the Albuquerque Police Department personnel to classify and report uses of force, and to establish the rules for determining whether the force was reasonable, and the minimum

amount of force was necessary. There was a lot of public input on these policies that he will be implementing on the next revision cycle due to running out of time on these policies. This is due to the need to get this information out to Field Services Bureau personnel due to some changes that are quite important. The procedures for non-reportable uses of force were taken from special orders, such as rendering aid. The sternum rub, for example, would not be a use of force. There was some debate about whether causing pain during a sternum rub was a use of force, but it was determined that rendering aid to rouse someone that may have overdosed or may be unconscious is not a use of force. A brief covering of an individual with a weapon system is not a reportable Level 1 use of force because there is no intent to get the individual to comply, it is just incidental covering. Non-force complaint of pain from handcuffing is not a reportable use of force. What we are having is a lot of people who when you put handcuffs on them they are uncomfortable. The individual says "ouch" and you will see the officer want to adjust the cuffs to make them more comfortable. We are not trying to get them to comply with anything they are just uncomfortable. Low-level control tactics continue to be a non-reportable use of force. A weapon at a low-ready continues to not be a use of force. The rest in 2-56-4 A. looks consistent with what we had. I do not see any changes to procedures. There was debate with authorizing force by Special Weapons and Tactics (SWAT) command. They authorize certain levels of force that is not ordering force. It is not the same as using force; it's authorizing it when certain parameters are met, whereas ordering force is telling your officer to deploy a beanbag or deploy a 40-millileter. Authorizing the use of force is keeping that information going up the chain of command when the time permits. A supervisor who is involved in any way will not be part of the investigation or the review. We still prohibit the use of boilerplate or conclusory language per the Court-Approved Settlement Agreement (CASA). The follow-up interview procedure was changed internally to where we are conducting follow-up interviews. Therefore, you will see a lot of internal complaints of boilerplate and conclusory language. This is due to us interviewing them and conducting a more thorough interview in order to obtain all of the information we need. Sworn personnel are not to detain an individual or witness solely for the purpose of conducting an administrative investigation. If we use force on someone and it is for an offense for which the individual cannot be arrested, the force may be appropriate, but we do not have anything to detain the individual. We do not hang on to them unless they cooperate and are willing to cooperate with the investigation. We ask them to get whatever information the individual will provide. If they do not provide anything we will treat it like an Emergency Response Team (ERT) call-out where we do not know who we used force upon. We thought it was important to clarify that we cannot detain an individual to do an administrative investigation. It is the same with witnesses we do not

detain individuals for the purpose of conducting an administrative investigation. During general procedures, the Performance Metrics Unit (PMU) will be doing audits. What they are doing is comparing resisting arrest and battery on a police officer. They are checking to see if there is a corresponding use of force investigation and report. If not, they will be looking into whether force was used and this will be sent up the chain of command. These items in the general procedures section are new.

Talks about unreported force where it has been that we have to report unreported force if we discover it goes to the PMU. During the review of this policy, there was question if we should be advising individuals of their rights prior to asking them about injuries and non-criminal questions. We discussed this with City legal and decided to leave that part in the policy. What we were finding is that people do not want to talk. It is hard to do an administrative investigation even without criminal questions, you are asking about injuries or what the officers did. When you advise the individual of their rights most immediately invoke their rights. We also remove references to the BlueTeam software system as the City is moving to a new system so we changed that to IA database web application. **Question: Is there a way to put the whole spectrum of use of force from the most severe to the non-reportable uses of force in order to try to get a perspective on whether that might allow you to look at how de-escalation is working or being applied? In other words, if officers have avoided a use of reportable force by engaging in de-escalation. In addition, wondering if there is a way to keep the statistics or if the statistics associated with non-reportable uses of force will determine that. This would be to move more and more in the direction of de-escalation and having a measure of what is being done at the lowest end, which would be non-reportable and might be valuable in terms of seeing what needs to be continued in de-escalation techniques.** Commander Evans expressed that he agreed with data-driven policy development and revisions and with the practice of feeding data back into training and policy. He confirmed they have been working on a matrix that is filled out during the investigation that will target weaknesses and de-escalation to basically cover IAFD's paragraphs during the investigation and to show where we were potentially deficient, or the investigation shows that de-escalation could have aided in preventing a use of force. My hope is with these data we draw from the investigations we can formulate better training and feed that back into policy and training. We want to take our main trainer and make them part of the policy process. Commander Evans confirmed he thought that those who do our training are seeing the statistics on the investigations believe it is important for them to have a say in the policy. He confirmed that when he was assigned to be lead on this policy it was overly detailed on how to do an investigation, which he explained he is not a proponent of because this level of detail is more so for training. He

explained that in six (6) months he hopes it will be implemented and we can fine tune it for a few months to make sure the data we need is coming out of it. **Is there a definition of administrative investigation? When I searched this document, I did not see one. Is that common language or is that too complicated to add in?** Commander Evans said he did not think it is too complicated, and thinks it is common knowledge for APD but maybe it is something we need to put into policy. IAFD concludes that anything that is non-criminal would be considered an administrative investigation; therefore, if I have a case that comes through that has potential criminal activity by an officer, IAFD refers it to the Multi-Agency Task Force (MATF) for investigation while they conduct their administrative investigation. Commander Evans solicited advice on whether they should define "administrative investigation". **The policy says if sworn personnel witness or learn about a use of force by another officer, I know that in Paragraph 41 of the CASA it does state that personnel who have knowledge of a use of force by another officer will immediately report it to a supervisor. I do agree with the statement that witness officers should report it to a supervisor, but how do you enforce or ensure an officer that is learning about a use of force from another officer? For example, if officer A tells officer B that officer C used force and officer B did not report anything, would that make officer B in violation of this policy?** Commander Evans explained that following the example, if the three officers were on-scene and a use of force took place or a potential use of force took place and they did not report it to the supervisor, then all of them that were aware of the force through an investigation could be found to have violated this policy and be sanctioned appropriately. He explained IAFD covers this in training at the Academy Division and covers it during the field training phase with the officers. It is an important part of police work, part of our transparency, and part of the CASA. As I explained as we were going through the policy, we are now taking it one step further by auditing these cases. With the audit, we are looking at resisting arrest and battery on a police officer. If there is no force that means that IAFD needs to look into it further. It is possible that no force took place but it is also possible that force did take place. It is important for us to look at that as an audit function just to make sure we are catching everything that is appropriate. **Does this apply only to the witness officer, or just some other officer who was not on-scene but learned about things by hearing about it from some other witness officer? Does this apply to that officer who was not a witness officer but just learned about it?** Yes, the policy as it is written states that anyone who has knowledge of a use of force may be culpable for non-reporting of force if they knew about it. That is what IAFD's investigation would reveal because we would be asking what their knowledge was in every level. **You mentioned earlier about a lot of community input that you did not incorporate into this policy**

**draft due to time constraints, would you be publishing a Department Special Order in the meantime when the next SOP policy development process comes along so those comments would be incorporated in the next round?** Commander Evan explained it would be unlikely that he would be doing a Special Order for the items that he hopes to address from input. He said there were a lot of changes that were made from public input but there is more that he wants to implement. He explained he wants officers to remember our policies and make substantive changes that are memorable and easy to remember the way they are written. Commander Evans stated he remembered them bringing up some examples from Camden County Police Department. He said he has reviewed Camden's policy and that there is a lot that he liked about it. He said it is not a lot different from APD's except that our's is more cut and dry and militaristic, for example "you shall and you will do...", whereas their's is more palatable. He expressed he liked how they emphasize sanctity of life and things like that. These are things he said he wants to specifically address in our policy where appropriate. He said he did not think it was appropriate for a Special Order but that he believes when this policy goes through our next review process, it will go much smoother and faster because we cleaned up everything we wanted to clean up and that is what took up a lot of our time. He said think we made a real difference on this policy and the next years will be even better. **Speaking of training, is there any observable training that the Civilian Police Oversight Agency can do in substitution for a ride-along, something that would allow CPOA members to see the training associated with the use of force. I know there is a lot of training being given in terms of reporting and I think that might be useful. I think it would be useful to see what kind of training officers receive in the field. I am looking for a way to try to broaden the kind of information we get with a traditional ride-along. I am running out of things to learn on a traditional ride-along.** Commander Evans confirmed he sees the value in that and will get with City Legal to see if there is anything in the City of Albuquerque and Albuquerque Police Officers' Association Collective Bargaining Agreement (CBA) because the union looks at these as internal investigations so that could be problematic. He said he looks at them as course of business but the union looks at them as internal investigations because we admonish the officers. He said he does not know what their rules are with civilians witnessing IAFD's complete investigation. He suggested maybe they can do an initial on-scene but those are call-outs and you would be places on the call-out and would have to respond in thirty (30) minutes of notification. I would have to check with the External Force Investigation Team (EFIT) also. **I was referring to the use of force training in the field done at the Academy. I thought there was ongoing training. One of the things I would like to find out is what is the training at this point associated**

	<p><b>with use of force. I know it is extensive and we are looking to improve our understanding with the overall training picture. I think we are all in agreement that we are trying to make a stronger connection between training, policy, and operations in the field. Anything that you think will be available or appropriate, and I recognize there are constraints placed by the union in terms of the investigation. I will leave it to you to put it through your filter to decide what will be available. I would just like to get some dialog started with that.</b> Commander Evans said he sees a lot less issues with that certainly. He went on to explain that IAFD just finished Phase 1 for our sixty (60) hour training for detectives. Phase 1 is ten (10) hours. He said they're hoping to have the rest of it completed in December now that is just for our detectives. Then they are going to be working on the field training. It is a long process developing these trainings, and developing them in a way they are supposed to be. Doing them correctly is difficult as there are a lot of processes involved. He said he can see the difference already. They changed Phase 1 of the training by implementing it and by training detectives, which has resulted in seeing the difference in investigations. He said he is seeing better investigations and that is with just Phase 1 of training. He said what they are doing is working but that it is just time consuming. He said he thinks plugging you into something and if there is sensitive information we can put on the training minus any sensitive information we can accommodate you in some fashion. He said he'd look into that and reach out. Training is a big portion of the revamping of IAFD. <b>I think it important that we be able to communicate the progress that has been made to the public as well. I believe there has been a lot of progress made and I think it is important to let everyone know what that is. I don't want to be picking at the deficiencies because that is what gets the attention. That is not what we are trying to do but to make things better and I applaud that.</b> It is not just having you involved I do value all your feedback; it is valuable to us. We work for you, we work for the city, and community members of Albuquerque. He confirmed he always receives really good feedback and that he walks away with something in his tool box. He said he enjoys these meetings and would love to have him as a part of anything they do. He said again that he'd get with City Legal to discuss what we can do to get you more involved.</p>
Action:	The draft SOP, as presented, was reviewed by P&P and will be uploaded in the Department's document management system for the 15-day commentary period.

<p><b>2. SOP 2-57 Use of Force: Review and Investigation by Department Personnel</b></p>	<p>Presented by: Acting Commander Richard Evans, IAFD</p>
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Discussion:	<p>A/Commander Evans advised there was quite a bit removed from the policy. He read the purpose statement: “The purpose of this policy is for the Albuquerque Police Department to objectively and thoroughly review every use of force and show of force by sworn personnel in order to reach a finding, supported by a preponderance of the evidence, concerning whether sworn personnel used the minimum amount of force that was reasonable and necessary, based on the totality of the circumstances to bring about a lawful objective. The Department categorizes force based on the level of force used and the risk of injury or actual injury from the use of force. The category of force—Level 1, 2, or 3—determines the kind of review or investigation that will be completed. The Department’s goal in categorizing force is to promote efficiency and reduce the burden on first line supervisors, while optimizing critical investigative resources on higher-level uses of force.” He explained that they are looking at the use of force review by supervisors and the chain of command, but that not a lot of changes were made in that section. There was a change to advise the supervisor to keep the detained individual on-scene if there is probable cause. He said they worked with City Legal and the Policy and Procedure Unit on this. He confirmed that there was more information added to that section. The addition directs sworn personnel to not delay medical transport if the individual is in need of medical attention. That was a Special Order that came out that they incorporated into this policy. They do not want to be detaining someone for an interview if they are hurt. He said we want to make sure they are given medical treatment. Where there are no charges against the individual and there is no basis for detention, the on-scene supervisor shall request the individual stay on-scene but shall allow them to leave if they decline. This is what A/Commander Evans was explaining in the previous policy. If the individual leaves, the on-scene supervisor shall attempt to obtain their contact information. If there are no charges, for example, if an officer shows up and they have to use force because someone is a danger to themselves but they do not have criminal charges, there are times the officer has to intervene and go hands on with the individual to refrain them from harming themselves. The officer then finds out that for some reason they cannot hold onto the individual or take them in for a medical or mental evaluation. This section prevents us from going beyond the law and detaining the individual and trying to force them to give the officer information that they do not have the authority to do. APD wants to make sure we are staying within our boundaries of the Constitution. A supervisor will review sufficient on-scene on-body recording device (OBRD) footage for the involved/witness officer in order to classify the correct level of force. A/Commander Evans stated they had this section convoluted before where the officer will review the primary officer’s OBRD footage up to the use of force and during and if there is still a question then they will review more footage. It was cleaned up to say to</p>
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watch enough footage to where you can accurately classify this force. He described that he is not telling the officers how to do something he is telling them to do it. He went on to explain that we teach officers how to do something in training and leave it up to the policy to outline what we want done as far as quality and guidance. A/Commander Evans stated he cleaned up the non-reportable use of force section. As he stated before, the IA database web application is what you are used to seeing as BlueTeam. APD may not always use BlueTeam so he has added the generic reference to the web-based system. Entries are required for the supervisor's on-scene investigation to verify force did not occur. They are called out and the officer does not know if he used force, they call the supervisor out and does their investigation and determines force did not occur. The supervisor still has to do an IA database web application entry to document that on-scene investigation. Accidental discharges from an intermediate weapons system is something that is covered later. This is when someone is struck by those types of weapons. Prisoner injuries that are not a result of a use of force, APD has individuals who injure themselves all the time where it was not force related. Allegations of a use of force that are not substantiated are something that happens from time to time such that an individual will allege we used force. One recent trend that APD has come across is that the individual will scream out, "Ouch, they are hurting me!" when no force is taking place. Sometimes force is taking place but we are seeing a lot of allegations. The supervisory investigative responsibilities for a Level 1 use of force. He pointed out again that is just for the on-scene investigation that IAFD is not involved in. They kept the list for what the on-scene supervisors shall do, as it is part of the CASA. If it is part of the CASA, we leave it in the policy and we cover it in training. He pointed out that nothing has changed in the timelines for documenting a Level 1 use of force. He said he thinks it would be appropriate to have longer timelines in the use of force investigation and review for field personnel. Coming from the field, he stated he takes great pride in how diligent he is in turning things in on time and working hard on things there were several times. He stated he could not stay within the ten (10) days. Lieutenants have a lot of video footage to review. In one case example, it took him the full ten (10) days to review the footage. He clarified that the timeline does not affect discipline. Discipline begins to run ninety (90) days upon identifying it. He does believe APD needs more time involved in this section but hopes to have the discussion with the Independent Monitoring Team. The OBRD section states the Lieutenant shall review all OBRD footage associated with that case, which takes a long time for a field lieutenant who is also responding to fatal calls and other high-level calls. There was not a lot of changes to the chain of command review. Performance Review Unit (PRU) is a unit under IAFD. They review the force investigations when they come in from the field command staff. Level 2 and 3 investigation by IAFD talks

about apparent criminal contact. IAFD sends the investigations to the Multi-Agency Task Force for the criminal investigations. IAFD does not do those investigations, though they can, as many are sworn officers. He said he prefers to have a separate division and task force to investigate and to promote transparency. The role of the MATF is the same in the policy. A/Commander Evans stated he still thinks the policy is a bit convoluted with the step-by-step process as he is against having a step-by-step structure in policy. However, if it is in the CASA it will be in the policy. He thinks it is important to have it in the policy so that everyone is on the same page. He thinks that there should not be much change over the years unless the CASA changes. Therefore, this policy should stay as it is. **Question: Given that the requirement that the lieutenants review all of the OBRD video, given that the standard outlined in the CASA is to have enough investigative information to come to a conclusion and the implementation of EFIT, and the fact that they have cut down on the amount of video that they are viewing if it is irrelevant, do you think you will be able to adopt that standard here in this policy to help with the work load for the investigation team?** An EFIT supervisor assists the team and is riding along with them to help with the investigation. They give an unbiased opinion and on an officer-involved shooting (OIS) in particular; they determine why are we reviewing perimeter units on a OIS that are just holding down traffic down. He said he is hoping that over time they can adopt this and have a more common sense approach to these video reviews. The review of video he spoke of earlier where he had 10 days to review most of it was perimeter units directing traffic and the K-9 Unit going yard-to-yard. When you have 4-5 officers on the same team, you are watching the same footage repeatedly. You would think if one camera captured the appropriate footage one should be enough. A/Commander Evans agreed with the thought behind this question. **Is there a way to add language in this review period? Therefore, the board has an OIS investigation and when I went into evidence, there were 75 videos associated with that particular file now the Force Review Board only identified two (2) pertinent videos for the board to review as part of their review. Can you add some language to say relevant video or something to encapsulate the review standard as outlined in the CASA? Do you think you can do that this time around or do you think you have to wait?** A/Commander Evans said he thinks he has to wait or publish a Special Order. The Video Review Unit was in disarray when he took it over and a lot of what he has been doing is getting the unit trained and fully staffed while keeping the investigations moving. He would like to focus just on adding the language and training, as he believes it is that important but takes time. It is something on his to do list but he is hoping to get a Special Order out. The Special Orders seem to get better attention from everyone involved during the review process. **A member**

	<p><b>of the Civilian Police Oversight Agency (CPOA) advised he created a process so that the board can review these serious uses of force cases. He wrote a document that includes the various types of evidence that is available or should be reviewed by the board. It does not contain evidence if it has links to the files so that the CPOAB can follow the process. He has also included in the document a flow chart on how the review process takes place. He would like to send it to A/Commander Evans and the Policy and Procedure Unit. With that idea, A/Commander Evans can advise if this is the accurate reflection of the actual review process. He thinks it will be useful if they learned where the problems might be. One thing he comes across is trying to understand the roll of the MATF as it always referrers back to a Memorandum of Understanding (MOU) that is not available. Therefore, there is an independence issue and he is not sure if it is real or not between how these cases are initially investigated. He cannot find the details that describe the relationship with APD and other agencies other than the names of the agencies. A/Commander Evans advised he did want to review the CPOA member's document. I think that is a problem we have run into before where investigations or an activity that engages other agencies ends up with some conflict within the procedures that each agency might follow and the guidance they use. It seems in order to have something transparent to the public there needs to be clearly written or defined roles for each agency.. On the other hand, it is where we lose transparency and get into trouble with conflicting policies or methods that are employed by different agencies.</b></p>
Action:	The draft SOP, as presented, was reviewed by P&P and will be uploaded in the Department's document management system for the 15-day commentary period.