

OC-22-12



City of Albuquerque  
Civilian Police Oversight Agency

Tim Keller, Mayor

Diane McDermott, Interim Executive Director

Interoffice Memorandum

June 14, 2022

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**To:** Council President Benton

**From:** Diane McDermott, Interim Executive Director

**Subject:** 2021 2nd Half CPOA Semi-Annual Report

Council President Benton:

In accordance with City of Albuquerque ordinance Sec. 9-4-1-10, please accept the enclosed electronic file version of the CPOA's 2021 July - December Semi-Annual Report.

Diane McDermott  
Interim Executive Director  
CPOA



## Mission Statement

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*“Advancing Constitutional Policing and Accountability for the Albuquerque Police Department and the Albuquerque Community”*

## Semi-Annual Report

*July 1<sup>st</sup> 2021- December 31<sup>st</sup> 2021*

**Edward W. Harness, Esq**

Executive Director (Former)

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## List of Acronyms

- *APD*- Albuquerque Police Department or “Department”
- *APOA*- Albuquerque Police Officer’s Association
- *CABQ*- City of Albuquerque
- *CPOA*- Civilian Police Oversight Agency or “Agency”
- *CPOAB*- Civilian Police Oversight Agency Board or “Board”
- *CPOA/Board*- Both Agency and the Board
- *CASA*- Court Approved Settlement Agreement
- *CRC*- Case Review Sub-Committee
- *CPC*- Civilian Police Complaint
- *CPCs*- Community Policing Councils
- *DOJ*- Department of Justice
- *ECW*- Electronic Control Weapons
- *FRB*- Force Review Board
- *IA*- Internal Affairs
- *IAPS*- Internal Affairs Professional Standard
- *IAFD*- Internal Affairs Force Division
- *OBRD*- On-Body Recording Device
- *OIS*- Officer Involved Shooting
- *OPA*- Office of Policy Analysis
- *PNP*- Policies and Procedures Review Sub-Committee
- *PPRB*- Policy and Procedures Review Board
- *SOPs*- Standard Operating Procedures
- *SNBOOC*- Sustained Not Based on Original Complaint
- *SUOF*- Serious Use of Force
- *UOF*- Use of Force

## Report Highlights

- Civilian Police Oversight Agency recorded/received 283 complaints and opened (assigned CPC numbers) 135 complaint investigations against APD personnel during the reporting period starting July 1<sup>st</sup> 2021 and ending December 31<sup>st</sup> 2021.
- The Agency completed 95 civilian police complaint investigations during this reporting period compared to 78 in the last reporting period.
- 53% of the civilian police complaints were closed within 120 days compared to 35% in the last reporting period.
- The Agency opened 135 complaints investigations compared to 118 during the last reporting period.
- 35% of the completed investigations were ‘Administratively Closed’.
- 20 APD Standard Operating Procedures (SOPs) came under review 157 times in 61 completed complaint investigations. SOP 1-1 Personnel Code of Conduct came under review 89 times in civilian police complaint investigations.
- 7 notification of non-concurrences were received from the Chief of Police.
- 92 APD employees were identified in completed complaint investigations during this reporting period, out of those, 41 were Police Officer/Patrol Officer 1<sup>st</sup> class.
- 90% of the APD employees identified in complaint investigations were white (52% white Hispanic, 48% white non-Hispanic) and 85% were Male.
- 95 complainants were identified in completed investigations during this period. 1 filed complaints anonymously. 37 were male, 43 were female, 1 identified as other and 14 complainants did not identify their gender. Youngest complainant was 18 years old and the oldest was 77 years old.
- 44% of the complainants were white while 37% did not report on race. 32% were Hispanic, 29% non- Hispanic while 39% complainants did not report on their ethnicity.
- Majority of the complainants were heterosexual (approx. 33%), while a significantly larger number (57%) did not report on their sexual orientation.
- 12% of the complainants reported they experience mental illness while 46% reported no mental illness. 42% of the complainants did not report on this information.
- 48% of the complainants reported they were not homeless when they interacted with APD while 6 complainants informed they were homeless at the time of the interaction. 46% again, did not report.
- 42 Serious Use of Force/Level 3 cases were investigated by IAFD. 31 SUOF cases were reviewed by the CPOA Board after they were reviewed by the Force Review Board (FRB).

## Introduction

The Civilian Police Oversight Agency (CPOA) is an independent Agency of the City of Albuquerque and is neither part of the City government or the City Council. The CPOA consists of the Board (CPOAB) and an Administrative Office (CPOA or “Agency”) led by the Executive Director. The CPOA investigates and review complaints and commendations submitted by the community members concerning the Albuquerque Police Department (APD) personnel and provides policy, disciplinary, training and procedural recommendations to the department. As stated in the Oversight Ordinance section (§ 9-4-1-2), the purpose of the CPOA is to:

- (A) Foster and perpetuate policing policies and practices that effectively maintain social order and which at the same time foster mutual trust and cooperation between police and civilians;*
- (B) Ensure that the civilian police oversight body functions as independently as possible from the executive and legislative branches of government of the City of Albuquerque;*
- (C) Provide civilians and police officers a fair and impartial system for the investigations and determinations on civilian police complaints;*
- (D) Gather and analyze information, reports, and data on trends and potential issues concerning police conduct and practices and the related impacts on the community and individuals; and*
- (E) Provide input, guidance and recommendations to the City Council, the Mayor and the Chief of Police for the development of policy for the Albuquerque Police Department.*

The CPOA is mandated by the Oversight Ordinance (§ 9-4-1-10) to regularly inform the Mayor, the City Council and the Public by submitting written semi-annual reports. The information provided in this report is for period beginning July 1<sup>st</sup>, 2021 through December 31<sup>st</sup>, 2021. This report is divided into the following sections:

- I. Complaint Details
- II. Employee and Complainant Demographics
- III. APD Use of Force Incidents
- IV. Public Outreach
- V. CPOA/Board Policy Activities, Policy Recommendations provided to APD, CPOAB Training Status & Legislative Amendments to Oversight Ordinance and Policies and Procedures

The first section, ‘Complaint Details,’ identifies the total number of complaints investigated (assigned CPC numbers) and closed (case investigation completed) during the last six months of 2021. This section covers complaint closure timelines, complaints source, the number of complaints by the city council districts and number of complaints investigated and closed compared to the previous years. Furthermore, the section provides information related to the SOPs that came under review in completed investigations, identifies the CPOA finding of complaints as well as provide snapshot of the CPOA Board receipt of non-concurrence letters or memorandum from the Chief of Police for findings or disciplinary recommendations as required by the Oversight Ordinance.

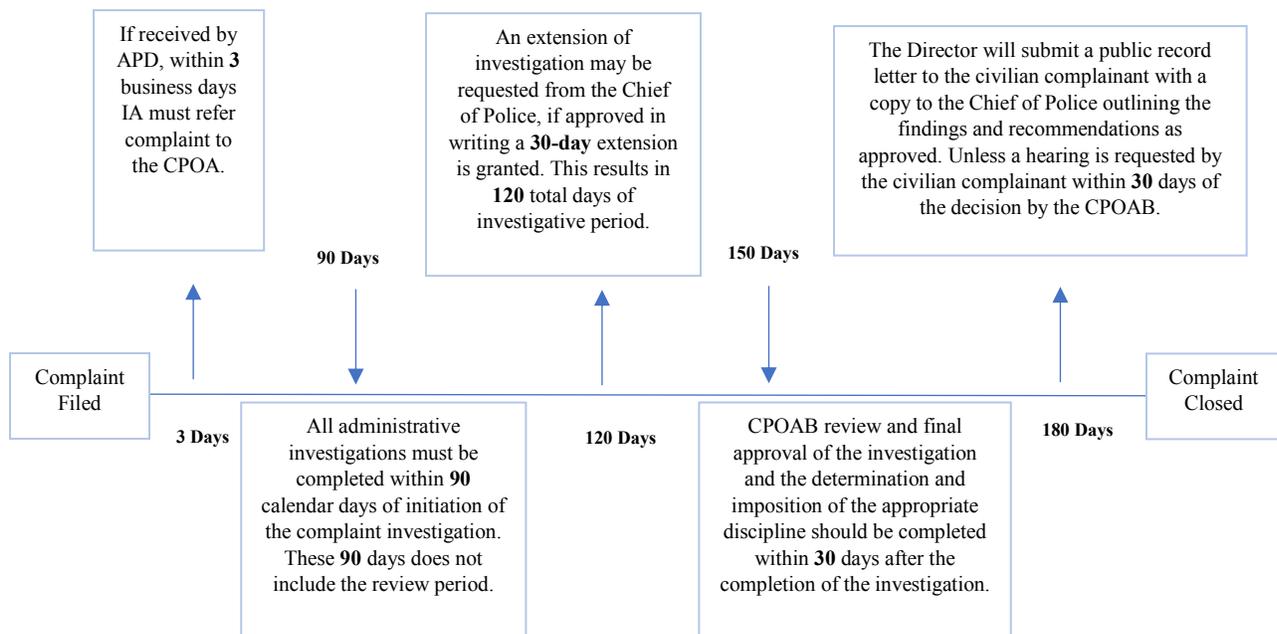
The second section, ‘Employee and Complainant Demographics,’ reports demographic information on both APD employees and the complainants. The information includes gender and race of employees involved, their rank, assigned bureau and division, median age, and also identifies number of employees involved in repeated complaints. With regard to the information about the complainants, this report provides data on their gender, race and ethnicity, sexual orientation, housing, mental health status and age.

The third section ‘APD Use of Force Incidents’ provides a snapshot of uses of force incidents that were received and investigated by Internal Affairs Force Division (IAFD) and Serious Uses of Force incidents reviewed by the CPOAB during the last six months of 2021. Section four will highlight Outreach Initiatives undertaken by the CPOA/Board during this reporting period. The final section highlights ‘the board policy activities, policy procedural or training recommendations

provided to the APD, discussion of issues/matters pertinent to the APD, status of the CPOA Board members training and the Board approved changes to the policies and procedures as well as oversight ordinance recommendations provided to the City Council for consideration.

Since March 18<sup>th</sup> 2020, Mayor Tim Keller declared Public Health Emergency for the City of Albuquerque due to the novel coronavirus (COVID-19). The CPOA remained operational in the modified capacity during this reporting period since march 2020 which significantly impacted both the Agency and the Board processes. Some of the processes impacted as a result of COVID-19 includes but not limited to; case investigations process while working remotely, inability to conduct in-person interviews for both officers and complainants and shift from in-person to online zoom meetings for the CPOA as well as the Board public meetings.

## Complaint Investigation Process



*Complaint Timelines*

Civilian police complaints can either be filed with the police department or with the CPOA itself. If the complaint is filed with the police, they must refer the complaint to the CPOA within three business days. Once the complaint is received by the CPOA, there are seven days to assign the complaint to an investigator. The CPOA will mediate complaints, whenever appropriate and with agreement of all parties involved. During this reporting period, second pilot mediation program ended after a period of one year. The agreement requires reporting of information pertinent to mediation program in order to measure its effectiveness after one year. Next section will report on the results of the second mediation program.

For the cases not sent to mediation, the CPOA is responsible to open a case and assign it to an investigator. The assigned investigator will interview complainants/witnesses, obtain evidence, and interview the APD personnel involved, when appropriate and review other necessary materials. Once the investigation of the complaint is completed, the Executive Director of the Agency will review the findings of the investigation to determine if there are any violations of Albuquerque Police Department Standard Operating Procedures (SOPs). The investigator may

close the complaint following an initial (preliminary) investigation or may take it for a full investigation. A complaint can be resolved without a full investigation for the following reasons:

- The investigator verifies after initial review that the complaint does not constitute misconduct by an APD employee,
- The investigator cannot minimally substantiate allegations,
- The policy violations are minor,
- The allegations are duplicative,
- There is lack of information to complete the investigation,
- The complainant requests a withdrawal of the complaint, or
- The complaint was lodged against someone who is not an APD employee.

Paragraph 191 of the Court Approved Settlement Agreement (CASA) stipulates *“All administrative investigations conducted by the Internal Affairs Division or the Civilian Police Oversight Agency shall be completed within 90 days of the initiation of the complaint investigation. The 90-day period shall not include time for review. An extension of the investigation of up to 30 days may be granted but only if the request for an extension is in writing and is approved by the Chief. Review and final approval of the investigation, and the determination and imposition of the appropriate discipline, shall be completed within 30 days of the completion of the investigation. To the extent permitted by state and city law, extensions may also be granted in extenuating circumstances, such as military deployments, hospitalizations of the officer, and extended absences.”*

After receiving the complaint, the CPOA has a total of 120 days to complete the investigative process including request for 30-day extension from the Chief in order to be compliant with the CASA requirement mentioned above. In some cases, citizens do not file complaint with the CPOA immediately after the incident, the body camera footage of the incident may not be available to CPOA investigators due to APD’s On-Body Recording Device (OBRD) non-evidentiary video retention policy of 120 days.

The Board reviews the outcome of complaints during the Board monthly meetings. The Board concludes whether they agree or disagree with the Agency's finding. During this review period, it is possible that the CPOAB will disagree with the Agency's finding and return the complaint to the CPOA for further investigation. The additional amount of time given to resolve the complaint resulting from CPOAB non-concurrence is not explicitly specified in the Oversight Ordinance, however these cases are dealt with priority and are presented to the Board at the next scheduled public meeting.

Upon approval of the findings and recommendations by the CPOAB, the CPOA Executive Director as per the Oversight Ordinance submits a public record letter to the complainant and to the APD Chief of Police with the findings. Upon receipt of the findings, the civilian complainant has 30 days to request an appeal of the CPOAB's decision if certain conditions for the appeal stated in policies and procedures are met. If no appeal is requested, the Chief of Police must notify the CPOAB and the original complainant of his/her final disciplinary decision. The Chief of Police/Superintendent of Police Reforms retains sole authority to take disciplinary action against an APD employee for violations of the department's SOPs.

The complainant may disagree with the Chief's disciplinary findings and can file an appeal to the Chief Administrative Officer of the City of Albuquerque concerning the discipline issues. If the investigation exceeds nine months, the Executive Director must report the reasons to the CPOAB. The Agency does not conduct criminal investigations. At any point during the investigative process, if the investigators at the Agency determine criminal allegations are associated with the civilian complaint, the administrative investigation is transferred to Internal Affairs Bureau at APD.

There are six possible findings of complaints investigated by the CPOA which includes:

- **Sustained** – Where the investigation determines, by a preponderance of the evidence that the alleged misconduct did occur.
- **Not Sustained** – Where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred.

- **Exonerated** – Where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training.
- **Unfounded** – Where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.
- **Sustained Violation Not Based on Original Complaint (Sustained/NBOOC)** – Where the investigation determines, by a preponderance of the evidence, that misconduct did occur that was not alleged in the original complaint but was later discovered during the investigation.
- **Administratively Closed** – Where the policy violations are minor, the allegations are duplicative, or investigation cannot be conducted because of the lack of information in the complaint.

## Mediation

Mediation Protocol (MOU) was entered into by and between the Civilian Police Oversight Agency (CPOA), the City of Albuquerque (COA), the Albuquerque Police Department (APD), and the Albuquerque Police Officer's Association (APOA) (collectively, "the parties") on July 2020 to set forth program guidelines. It allowed the CPOA to refer eligible complaints to the City's Alternative Dispute Resolution (ADR) office for conducting community-police mediation.

Mediation is broadly defined as an informal process where a neutral third party, with no power to impose a resolution, helps the disputing parties attempt to reach a mutually acceptable agreement.<sup>1</sup> Mediation is considered effective in resolving community-police complaints because both parties gain understanding, perspective, and insight into each other's behavior and actions. It allows for the complainants and members of the APD to engage in face-to-face negotiations, in presence of experienced mediators in a comfortable, quiet and private space to talk about the incident that led to the grievance.

The Memorandum of Understanding for mediation protocol provides the list of complaints that are eligible for mediation, not eligible for mediation and also identifies what circumstances will make officer ineligible to participate in the mediation process. It includes;

### Eligible Complaints

- i. Communications, including rudeness;
- ii. Complaints regarding non-fatal vehicle crash investigations;
- iii. Inadvertent mistakes on routine police forms;
- iv. Other similar complaints of less serious nature, commonly referred to as a Class 7 violation, deemed appropriate for mediation by the CPOA Executive Director.

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<sup>1</sup> Martin, M. D. (2004). *The use of mediation to resolve citizen complaints and foster better citizen/police relations.*

In-eligible Complaints

- i. Cases involving injury to either complainant or officer;
- ii. Cases involving sexual, ethnic, homophobic, or racial slurs, or other language that denigrates vulnerable groups;
- iii. Cases involving use of force allegations;
- iv. Cases in which criminal allegations have been made against the officer or the civilian; or,
- v. Cases involving questions of law such as searches or detention issues.

Officer’s In-eligibility

- i. Sustained case within the past year;
- ii. A prior mediation within the past six months;
- iii. Three mediations within the past two years;
- iv. Similar misconduct allegation within the previous 12 months;
- v. Other factors involving the officer as determined by the CPOA Executive Director.

**Findings**

**38** Civilian Police Complaints were referred to the Alternative Dispute Resolution (ADR) office for resolution through mediation. Eligibility criteria for those referrals is listed in the table below.

Communications including rudeness	16
Deemed appropriate by the Executive Director	16
Inadvertent mistakes on routine police forms	4
Non-fatal vehicle crash investigations	1
Other (parking issue)	1

*Table 1: Substance of complaints referred to ADR for mediation*

**6** referrals were **Successful** and **32** were **Unsuccessful/No results**. **Successful** mediation indicates participation in the mediation session and agreement among all parties. If there is agreement between the complainant and the officer as it is conveyed by the ADR office (2 referrals) it is considered as successful mediation. There were *three* referrals that are considered successful, however there was informal mediation where the participants reached an agreement after the referral but before the occurrence of actual mediation session. However, the complainants were satisfied with the overall process and outcome.

*One* referral was considered successful where both complainant and the officer participated in the session. They were pleased with the mediation session, however there was no mutual agreement between the parties with the issues and practices pertaining to law enforcement in general. **Unsuccessful** mediation suggested no participation by the complainant for which the CPOA investigators received notices of refusal from the ADR office. **No Results** suggests referrals where complainants were completely unresponsive, no mediation occurred and are also considered as unsuccessful mediation.

## Data Source and Limitations

This report highlights complaints investigated and complaints closed (investigation completed) along with the findings; demographic information of employees and complainants; and number of serious uses of force incidents. It also provides information regarding policy activities at APD during the reporting period; policy recommendations given by the CPOA/Board, CPOAB training status as well as the CPOA/Board public outreach efforts. Data for this report is retrieved from the IA Pro (Internal Affairs record management database), complainant data retained by the CPOA, CPOAB meeting minutes and City of Albuquerque human resources.

Since the majority of the data is extracted from IA Pro database, it is important to note that the CPOA is not an IA Pro administrator and only has limited control over data entry into the database. The data contained in this report represents the most accurate information available at the time of retrieval. Moreover, the information stored in the database is dynamic and can change as an investigation progresses. The CPOA cannot certify the validity and reliability of APD Internal Affairs data retrieved from the database. Since the complaint data were drawn from live databases, changes in coding, complaints specifications, allegations, employee/complainant and outcome numbers may fluctuate over time and are subject to revision. Addition of new information in the cases later in the stage of investigative process may also lead to discrepancies between data presented in this report and historical data presented in previous CPOA reports.

## Section 1. Complaint Details

Civilian Police Oversight Agency is responsible for receiving and investigating all complaints involving APD employees and ensuring that the complaint process is accessible to all members of the community. Any person claiming to be aggrieved by actions of the Albuquerque police may file a complaint against any of its employees/officers.

During the reporting period of July 1<sup>st</sup> 2021 to December 31<sup>st</sup> 2021, the CPOA received or recorded a total of 283 complaints/concerns and opened (assigned CPC numbers) 135 complaint investigations. Note that complaint investigations are an on-going process and so these numbers may change in future. Several complaints recorded by the Agency were not assigned for investigation due to reasons including but not limited to:

- Investigators after initial review evidently determined that allegations are not true or does not constitute misconduct,
- Duplicative complaints (already assigned a CPC number),
- Complaints not involving APD personnel (out of jurisdiction),
- Complaints at time of receipt were resolved through informal mediation,
- Driving complaints forwarded to officer supervisor for resolution,
- Lack of information to open an investigation and,
- Complaints forwarded to Internal Affairs due to aspect of criminal allegations.

Complaints opened for investigation by each month (as depicted in the chart on the right) shows that the majority (approx. 19%) were opened in the month of August. The CPOA closed/completed a total of 95 complaint investigations which is an increase from the last reporting period when the Agency closed 78 cases. Out of 95 completed investigations, 52 were opened prior to this reporting period while 43 were opened and closed during this reporting

### Complaints Recorded

283

### Complaints Opened

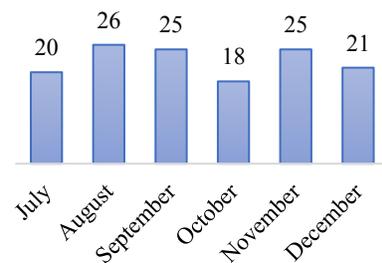
(Those assigned CPC numbers)

135

### Complaints Closed

95

*Data Source: IA Pro*



period. Of the complaints that were closed, (approx. 35%) were closed administratively. Paragraph 184 of the CASA in part states “*Administrative closing or inactivation of a complaint investigation shall be used for the most minor policy violations that do not constitute a pattern of misconduct, duplicate allegations, or allegations that even if true would not constitute misconduct.*”

### Complaint Closure Timelines

Information pertinent to complaint investigations timelines for the current reporting period is highlighted in this section. As noted earlier, all complaints must be completed within 90 days unless an extension of 30 days from APD’s Chief is granted as stated in Paragraph 191 of the CASA. For this reporting period, 51 out of the 95 complaints were closed in less than 120 days. 9 complaints were closed after nine months from the date of receipt. Table 2 below provides a snapshot of all complaints closed by the Agency by the total number of days taken for case completion.

Up to 90 days	91-120 days	121-150 days	151-180 days	181 days-9 months	Over 9 months	Total
32	19	26	7	2	9	95

*Table 2. Complaints Closure timelines*

*Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021*

*Note: The timelines do not reflect date of case completion by investigators, it reflects the date when cases are closed in the database after approval by the CPOAB.*

### Complaint Sources

Complaints received by the Agency can come through different sources. A complainant may file it in writing/in-person or over the phone. They can email, file online, send the complaint through regular mail, or fax the complaint. Complaint forms are available online, at all police sub-stations, supervisor patrol cars, libraries and community centers across Albuquerque - covering more than fifty locations. For the period of July 1<sup>st</sup> to December 31<sup>st</sup> 2021, out of the 135 complaints opened, 64 reached the Agency through online self-

reporting by citizens, 33 complaints were received via blue team<sup>2</sup>/APD, while 16 were received by the Agency through email. Table 3 below lists the source of all complaints that were opened for investigation during this reporting period.

Blue-team	Email	Facsimile	Online-Self Reported	Online-Call in	In-Person	Interoffice Memo	Written-Mail
33	16	1	64	12	7	1	1

*Table 3. Complaints Source*  
*Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021*

### Complaint by City Council Districts

The information reported in this sub-section provides a list of complaints opened for investigation identifying incident location (if any) by the City Council districts. Of the total 9 City Council districts in Albuquerque, majority of the complaints opened were for incidents which occurred in District 6 and District 7, with 21 and 20 complaints respectively. The CPOA opened the least number of complaints for police misconduct incident occurring in City Council Districts 5 and 8 with 6 complaints each. Figure 1 below provides a snapshot of all City Council districts in Albuquerque as well as show number of complaints opened by the Agency by respective council districts. 9 complaints did not identify city council districts where the incident occurred. These are listed as ‘not reported’ in the figure below.

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<sup>2</sup> Blue Team is a program in IA Pro which allow Incidents (use-of-force, field-level discipline, complaints, vehicle accidents and pursuits) to be entered and routed through the chain-of-command for review and approval. Complaints received by APD and forwarded to the CPOA are identified as ‘Blue-team’ in this report

- District 1= 9
- District 2= 19
- District 3= 8
- District 4= 10
- District 5= 6
- District 6= 21
- District 7= 20
- District 8= 6
- District 9= 7
- Out of Area= 4
- Not Applicable = 16
- Not Reported= 9

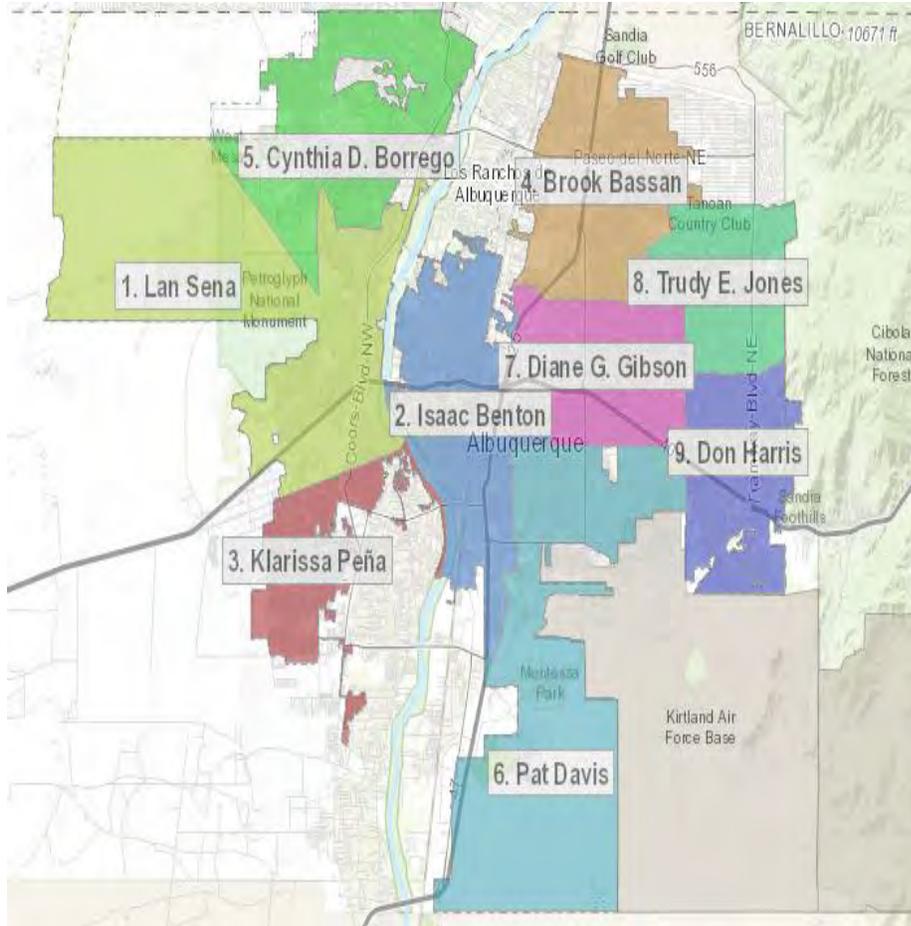


Figure 1.

Albuquerque City Council Districts Map & complaints investigated for each district

Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021

Several citizens who filed complaints did not provide information regarding incident location. Some complaints were filed against employees for reasons not involving a physical incident, such as conduct by an employee over the phone or officers not following up on investigations, which are shown as ‘Not Applicable’ in the figure above. 4 complaints opened during this reporting period were from ‘Out of Area’ suggesting the incident occurred outside of the City Council’s jurisdiction.

## Complaints Trend

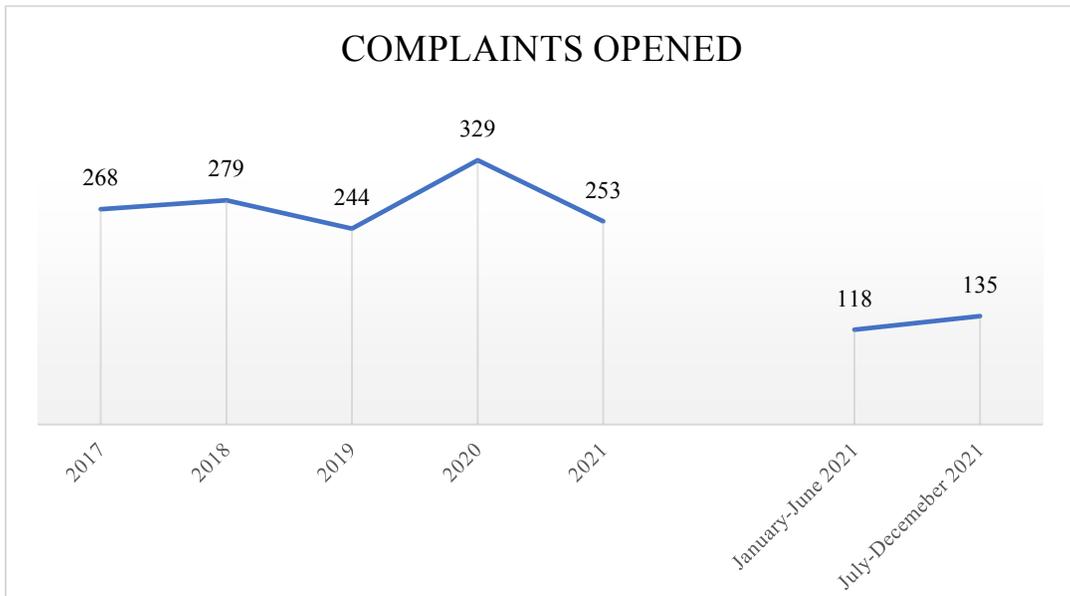


Figure 2.1. Civilian Police Complaints opened trend  
Data Source: IA Pro- January 1<sup>st</sup> 2017-December 31<sup>st</sup> 2021

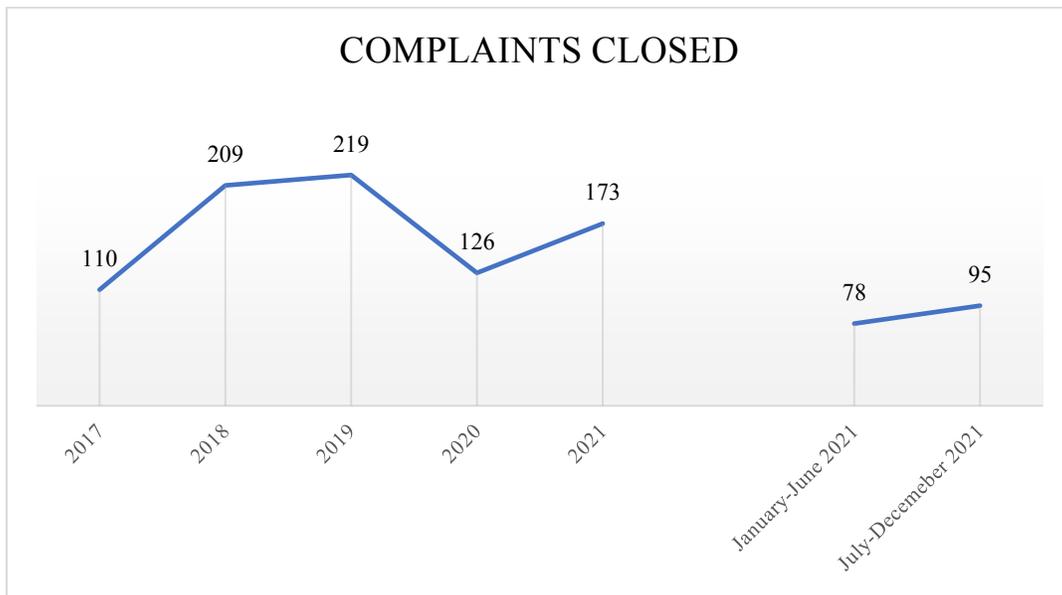


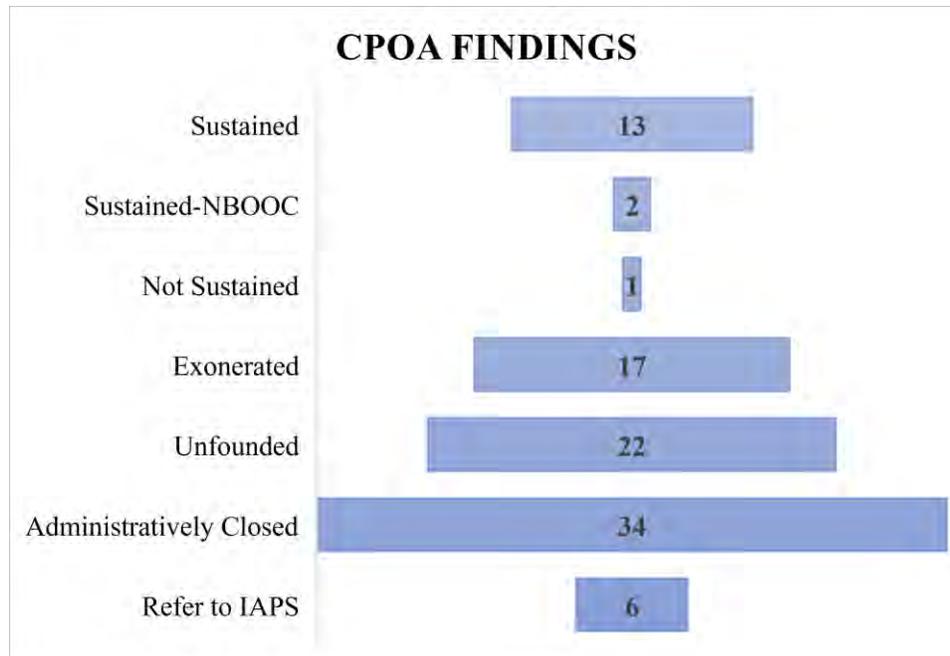
Figure 2.2. Civilian police complaints closed trend  
Data Source: IA Pro- January 1<sup>st</sup> 2017-December 31<sup>st</sup> 2021

Figure 2.1 and 2.2 above presents the number of complaint investigations opened and closed by the Agency from January 2017 to date. 135 complaints were opened for investigations during the current reporting period compared to 118 complaints during the first six months of 2021. During the years 2019 and 2020, the Agency opened investigations for 244 and 329 complaints respectively as seen in figure 2.1 above. The Agency completed case investigations for 95 complaints during this reporting period compared to the last reporting period when the Agency closed 78 complaint investigations.

### Complaint Findings

Following the completion of investigation for civilian police complaint, the CPOA identifies one of several findings for each allegation associated with the complaint. These include: Unfounded (investigation determined that misconduct did not occur), Sustained (alleged misconduct did occur), Not Sustained (unable to determine by preponderance of evidence whether misconduct occurred), Exonerated (alleged conduct occurred, but did not violate APD policies, procedures or training), Administratively Closed (minor policy violation, duplicative allegations, or cannot conduct investigation due to lack of information in the complaint) and Sustained NBOOC (sustained finding not based on original complaint).

It is important to note that there can be more than one allegation and more than one officer involved in one civilian police complaint. For instance, if there are 3 allegations in one complaint, there will be 3 findings for each allegation (e.g. Sustained, Unfounded & Admin Closed). For such case, the findings in this report will be reported as 'sustained' which is the highest disposition as reported in IA Pro database. Figure 3 below illustrates findings by the CPOA for all civilian police complaints which were completed during July 1<sup>st</sup> to December 31<sup>st</sup> 2021.



*Figure 3. CPOA findings for Complaints Closed  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021  
Sustained-NBOOC-Sustained Violation Not Based on Original Complaint*

Table 4 below provides a snapshot of all administratively closed cases and identifies why this finding was assigned. 10 out of 34 cases were administratively closed due to ‘Lack of information’.

Reason for Admin Closure	Count
Lack of Information	10
No Jurisdiction	7
No SOP Violation	2
Duplicative	5
Mediate	4
Minor Violation	1
Admin Closed	5
<b>Total</b>	<b>34</b>

*Table 4. Administratively closed cases  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021*

## APD SOPs listed in Closed Complaint Investigations

SOP Number & Title	Times Reviewed	CPOA Findings
1-1 Personnel Code of Conduct	89	x31 Unfounded, x27 Exonerated, x19 Sustained, x6 SNBOOC, x6 Not Sustained
1-2 Social Media	4	x4 Sustained
2-01 Communications	1	x1 Sustained
2-16 Reports	3	x3 Sustained
2-19 Response to Behavioral Health Issues	3	x2 Unfounded, x1 Exonerated
2-21 Apparent Natural Death/Suicide of an Adult	1	x1 Exonerated
2-40 Misdemeanor Traffic and City Ordinance Enforcement	1	x1 Sustained
2-42 DWI Investigations and Revoked/Suspended License	4	x4 Sustained
2-46 Response to Traffic Crashes	1	x1 Unfounded
2-52 Use of Force-General	9	x4 Unfounded, x3 Exonerated, x2 SNBOOC
2-57 Use of Force-Review and Investigation by Department Personnel	2	x2 SNBOOC
2-60 Preliminary and Follow up Criminal Investigations	17	x13 Exonerated, x3 Sustained, x1 Unfounded
2-71 Search and Seizure Without a Warrant	2	x2 Exonerated
2-8 Use of On-Body Recording Devices	2	x2 SNBOOC
2-82 Restraint and Transportation of Individuals	1	x1 Exonerated
2-86 Investigation of Property Crimes	2	x2 Unfounded
2-92 Crimes Against Children Investigations	1	x1 Sustained
3-13 Officer's Duties and Conduct	10	x5 Exonerated, x2 Sustained, x2 Unfounded, x1 Not Sustained
3-14 Supervision	1	x1 Exonerated
4-25 Domestic Violence	3	x1 SNBOOC, x1 Exonerated, x1 Unfounded

*Table 5. SOPs reviewed in completed CPOA Investigations  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021  
SNBOOC-Sustained Violation Not Based On Original Complaint*

This sub-section identifies allegations associated with complaints that were closed by the Agency during this reporting period. Administratively closed cases comprise of approximately 35% of the total cases closed and no allegations are listed for this finding in the database. This section highlights department SOPs that were reviewed for remaining cases with the findings other than administratively closed. With the help of this data, we can identify the department standard operating procedures which came under review the most in civilian police complaints.

20 APD SOPs were reviewed 157 times for 61 cases with the finding other than administratively closed. SOP 1-1 (Personnel Code of Conduct) was reviewed 89 times while SOP 2-60 (Preliminary and Follow up Criminal Investigations) came under review 17 times in civilian police complaint investigations during this reporting period. Table 5 above lists all the SOPs that were reviewed, number of times they were reviewed along with the CPOA investigative findings.

### Chief Non-Concurrences with CPOAB findings

This sub-section identifies cases when the Chief of Police did not concur with the CPOAB proposed findings or disciplinary recommendations concerning an APD employee. Oversight Ordinance section (§ 9-4-1-4-C-3-g) stipulates *“Imposition of the recommended discipline is at the discretion of the Chief of Police. However, if the Chief of Police does not follow the disciplinary recommendation of the Board, the Chief of Police shall respond in writing, within 30 days of the department's final disciplinary decision, with a detailed explanation of the reason as to why the recommended discipline was not imposed. The Chief shall identify the specific findings of the Board with which the Chief disagrees, or any other basis upon which the Chief declined the Board's disciplinary recommendation”*. During this reporting period, the CPOAB received seven (CPC 109-21, CPC 093-21, CPC 038-21, CPC 249-20, CPC 250-20, CPC 067-21 & CPC 095-21) notification of non-concurrences from the Chief of Police. (See Appendix III-1 to 7)

## Section II. Employee and Complainant Demographics

Section § 9-4-1-10-B of the Oversight Ordinance requires reporting of demographic information pertinent to department personnel as well as complainants listed in civilian police complaints. This section is divided into two sub-sections, first will provide information for APD employees while the second sub-section reports on demographic information of complainants identified in completed complaint investigations from July 1<sup>st</sup> 2021 to December 31<sup>st</sup> 2021.

### Employee Demographics

Complaints can be filed against both sworn and non-sworn employees of the Albuquerque Police Department. A total of 92 APD employees were identified in 95 completed investigations during this reporting period. Out of 95 completed investigations, 75 cases provided information regarding sworn and non-sworn APD employees while 20 complaints did not identify involved employees in the IA Pro database. Complaints that did not identify employee information, were all ‘Administratively Closed’. Note that one complaint can have more than one employee involved.

As required by the Oversight Ordinance, this sub-section reports on demographic characteristics of APD employees who were identified in completed civilian police complaint investigations in this reporting period. The information reported here provides a snapshot of the employee’s rank; includes information on employees by the number of times they were identified in complaints, assigned bureau and division, race & ethnicity, gender and median age. Table 6 below illustrates the total number of APD employees by their race, ethnicity and gender as of December 2021.

<b>Race &amp; Ethnicity</b>	<b>Female</b>	<b>Male</b>	<b>Total</b>
American Indian or Alaskan Native	16	18	<b>34</b>
Asian (Not Hispanic or Latino)	3	14	<b>17</b>
Black or African American	3	28	<b>31</b>
Hispanic or Latino	265	422	<b>687</b>
Native Hawaiian or Other Pacific Islander	1	6	<b>7</b>
Two or More Races (Not Hispanic or Latino)	11	17	<b>28</b>
White (Not Hispanic or Latino)	173	503	<b>676</b>
<b>Total</b>	<b>472</b>	<b>1008</b>	<b><u>1480</u></b>

*Table 6. APD Employee Demographics as of December 2021  
Data Source: City of Albuquerque, Human Resources*

## Employee's Rank

As stated earlier, 92 employees were identified in complaints closed during the current reporting period. Among those, 41 were Police Officer's 1<sup>st</sup> class and 17 were Senior Police Officer 1<sup>st</sup> class. Please note that 3 officers were identified in complaints at different ranks which led to an increase in the total number shown in the figure below. Figure 4 below provides information regarding all employee's rank at the time of incident who are identified in completed complaint investigations.

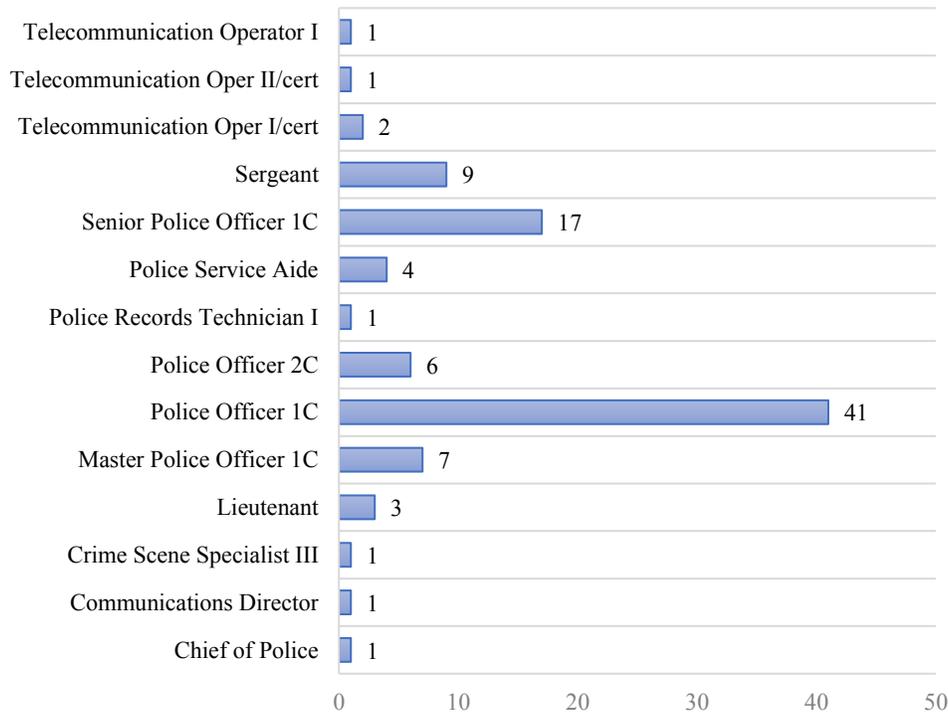


Figure 4. Employees Rank  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021

### Employee's Involved in Complaint Investigations

This sub-section identifies the number of complaints closed by the total number of employees involved. Of the total 95 complaints closed during this period, 75 identified information about involved employees. Table 7.1 below suggests 48 complaints closed identified one APD employee. 20 complaints identified two employees, 5 complaints listed 3 employees and 2 complaints closed during this period listed 4 employees.

Number of Complaints	Concerned Employees
48	1
20	2
5	3
2	4

Table 7.1 Complaints Closed & Employees involved  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021

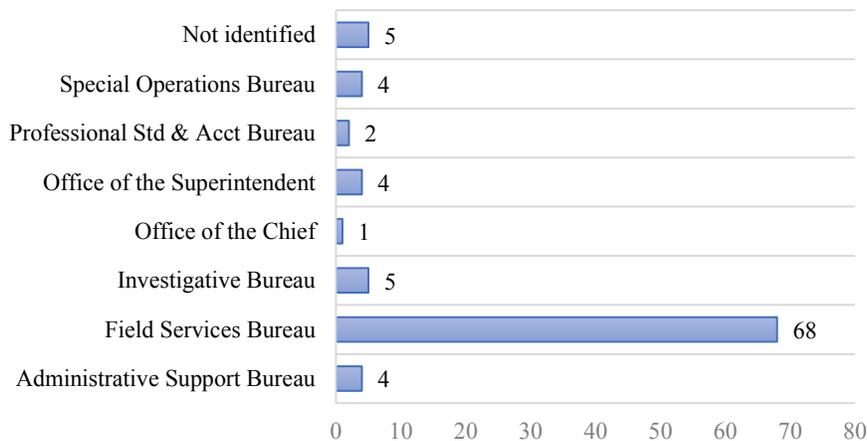
This sub-section reports on the number of times APD employees were involved in complaints investigated during this reporting period. Table 7.2 below provides snapshot of employees involved and times they were involved in completed complaint investigations.

Number of Employees	Times Involved
75	1
15	2
2	3

*Table 7.2 Times Employees involved*  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021

### Employee’s Assigned Bureau

This sub-section provides information pertinent to the bureau of involved employees at the time of misconduct incident. Majority of the complaints identified employees from the Field Services Bureau. Figure 5 highlights all the employees who were identified in completed complaint investigations by their assigned bureaus. Note that 5 employees did not have information regarding their assigned bureau in the database and 1 employee was identified in complaints as part of two separate bureaus at the time of complaint receipt.



*Figure 5. Employee’s Assigned Bureau*  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021

## Employee's Assigned Division

This sub-section provides information related to employee's division at the time when a misconduct complaint was investigated by the Agency. Total of 20 employees who received complaints were assigned to the Northeast area command division while 17 employees from Southeast area command division were identified during this reporting period. 6 employees received complaints at different divisions leading to a high number shown in the figure below. Further breakdown of employees by their assigned division at the time when complaints was investigated by the Agency is illustrated in figure 6 below. Note that 5 employees did not have information regarding their assigned division in the database.

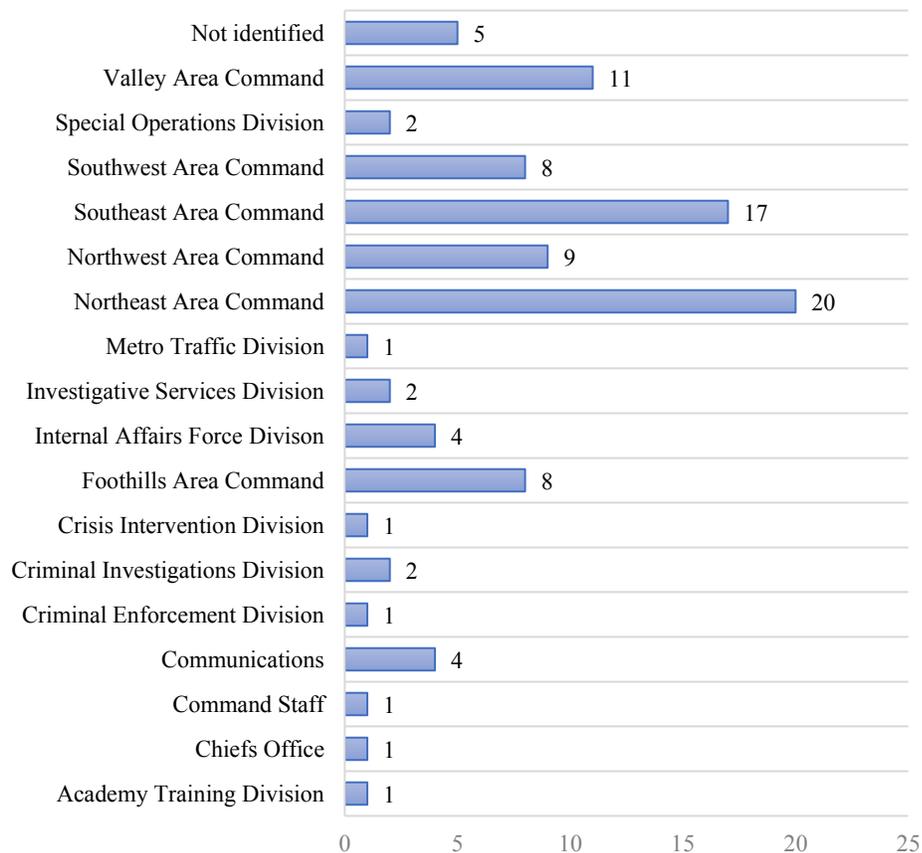


Figure 6. Employee's Assigned Division  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021

## Employee’s Gender, Ethnicity and Race

The CASA and the Oversight Ordinance require capturing demographic information of APD employees who were the recipient of civilian police complaints. Reporting on such information help identify the trends and biases of employees originating specifically due to the race and gender and will also inform the CPOAB to provide policy, training and procedural recommendations to APD. As seen in the figure 7, approximately 90% of APD employees identified in completed complaint investigations were of white race and approximately 84% were male. Of the total 83 white employees, 43 were white (Hispanics) and 40 were white (Non-Hispanics).

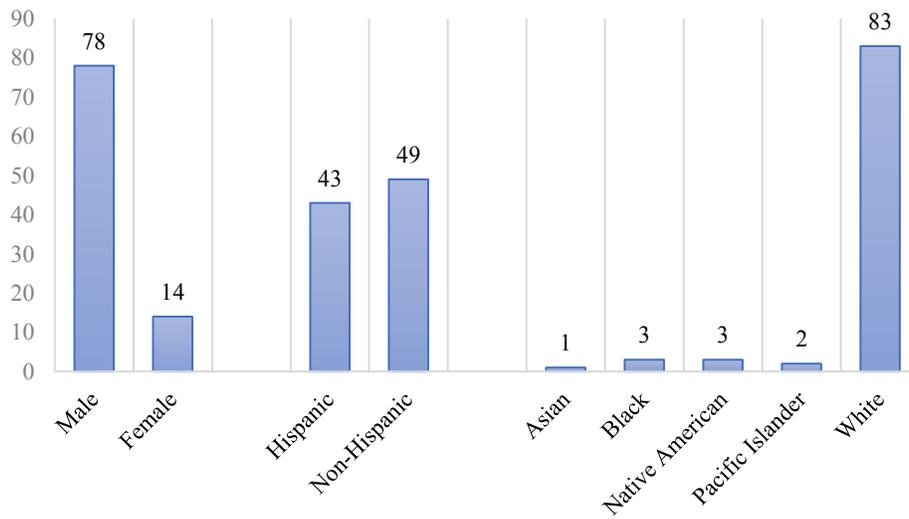
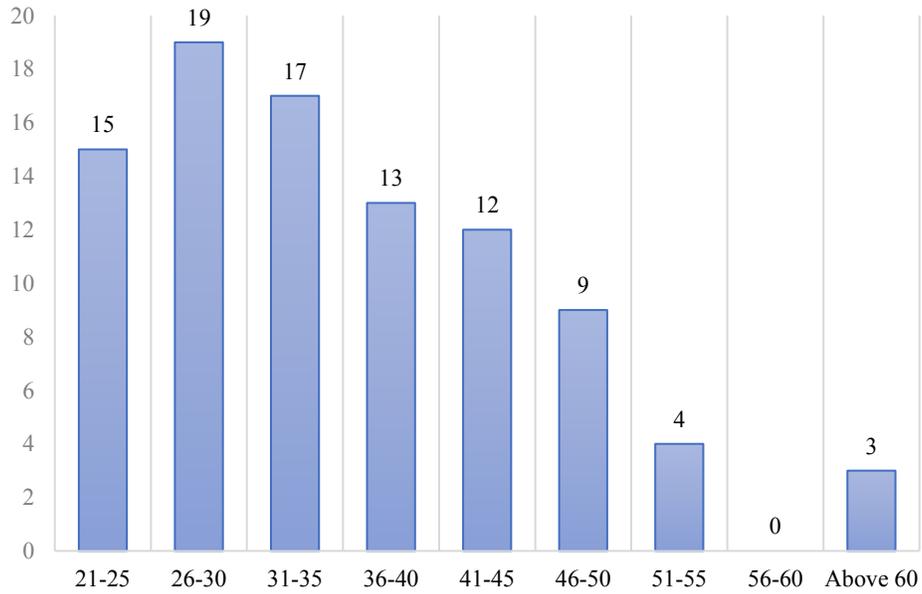


Figure 7. Employee’s Gender, Ethnicity & Race  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021

## Employee’s Median Age

This sub-section shows the median age range of all employees who were identified in misconduct complaints investigation during this reporting period. 19 employees were in the age group of 26-30 years while 17 were between 31-35 years old at the time of the incident. The youngest APD employee identified in the CPOA investigation was 21 years old while the oldest employee was 62 years old at the time when the incident occurred.

Figure 8 below provides information regarding all employees' age who were identified in completed civilian police complaint investigations.



*Figure 8. Employee's Median Age*  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021

## Complainant's Demographics

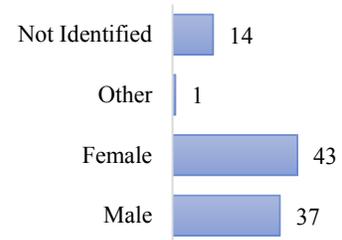
This section identifies complainant's demographic information for this reporting period. To fulfil the CASA requirement, the Agency amended its complaint forms in order to capture additional data for involved complainants. For the current reporting period, the Agency completed 95 civilian police complaint investigations involving 95 complainants. 1 out of those filed complaints anonymously. The data provided in this section provides information on complainants' gender, race, ethnicity, sexual orientation, mental health status, median age and housing status (homeless).

During this reporting period, 2 complainants were listed among 2 separate closed complaints during this period and 1 complainant was listed in 4 closed cases. 3 complainants did not provide their names. 2 complainants were listed as APD officers, those complaints were forwarded to IAPS and 1 complaint was received from a member of DOJ. 5 civilian police complaints closed during this period listed 2 complainants. The source of data reported in this section is from the complaint form 'Optional Demographic Section'. Note that information reported in this section mirrors the information reported by the citizen in the complaint form. The complainant might state they do not have mental illness in the complaint, but is later determined that they have mental health issues. The information reported here will state 'No' mental illness as stated by the complainant on the complaint form. Some data is not reported by complainants regarding the demographic characteristics which will be highlighted alongside each sub-section.

Since this section is 'optional' while filling the complaint form, several complainants skipped this demographic section and did not provide any information. Some complaints were received via direct email, blue team or through written memorandum by the Agency which do not have any demographic information regarding complainants. This caused a significant large number of missing information. Another reason for missing information is due to old complaint forms which did not capture all the information as required in the new complaint form. Notably, some complaints are filed by citizens on behalf of other individuals. Demographic information captured may not have information of the actual complainant but rather have information of those submitting the complaint form. Sub-sections below highlight demographic information for complainants from July 1<sup>st</sup> 2021 to December 31<sup>st</sup> 2021.

## Complainant Gender

This sub-section provides information regarding the gender of complainants who were identified in closed civilian police complaints during this reporting period. Of the total 95 complainants, Male were 37 compared to 43 Female complainants. 1 complainant identified their gender as ‘other’. 14 complainants listed in closed complaints did not record information about gender and among those 2 were APD officers, 1 listed as DOJ and 1 anonymous complainant.



## Complainant Race & Ethnicity

Data on race and ethnicity will help identify problems and population at risk, which is crucial information for policymakers in making effective decisions. The data will also help understand the underlying causes of problems faced by specific groups of population due to police misconduct. It will help understand if police officers are complying with civil rights law and will also help detect evidence of discrimination against certain population segments. As seen in figure 9, white complainants comprised of the largest percentage (approx. 44%). 33% of the complainants did not report on race while submitting complaint with the Agency. Individuals with Hispanic ethnicity has slightly large percentage (approx. 31%) compare to non-Hispanic (approx. 29%) with (approx. 39%) complainants not identifying information about ethnicity.

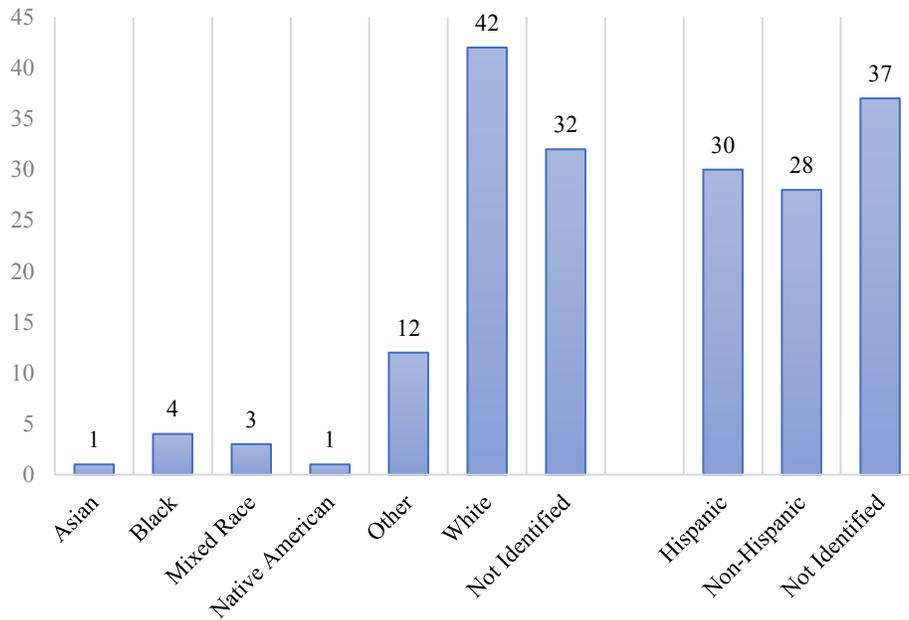
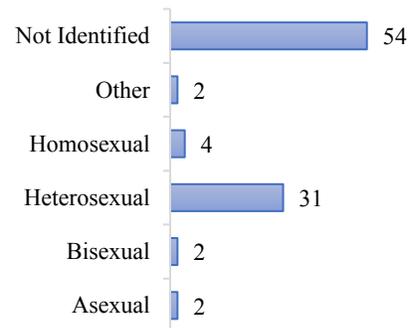


Figure 9. Complainants Race & Ethnicity  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021

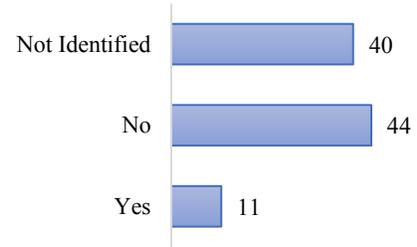
### Complainant Sexual Orientation

Per the CASA agreement, the Agency and APD are mandated to collect data regarding the sexual orientation of citizens to identify possible biases among specific population segments. Discrimination and harassment by law enforcement based on an individual’s sexual orientation hinders the process of effective policing, breaks community trust and prevents officers from protecting and serving communities. For the complaint investigations completed during this period, approximately 33% of the complainants were identified as heterosexual while a significantly larger number (approx. 57%) of the complainants did not provide information regarding their sexual orientation.



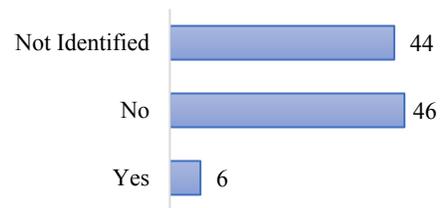
### Complainant Mental Health Status

This sub-section provides information pertinent to mental health status of complainants. Paragraph 175 of the CASA states “APD and the Civilian Police Oversight Agency shall track allegations regarding misconduct involving individuals who are known to be homeless or have a mental illness, even if the complainant does not specifically label the misconduct as such”. The CPOA updated the complaint form to comply with the Department of Justice requirements by adding questions to determine if complainants experience mental health issues or struggled with homelessness. For this reporting period, 11 complainants stated they were experiencing mental health issues while 44 reported ‘No’ mental health issues. 40 complainants did not report on this.



### Complainant Housing Status

The information reported in this sub-section identifies whether the complainants were homeless at the time of interaction with the APD. 46 complainants stated they were not homeless when the incident occurred while 6 complainants stated they were homeless at the time of incident. 1 complainant filed four separate complaints among which they listed they were not homeless at the time of interaction with APD in three instances while in one occasion the complainant reported they were homeless. Again, a significantly large number, 44 did not report on this information.



## Complainant Median Age

This sub-section highlights the median age of complainants identified in closed complaints during the last six months of 2021. 64 complainants reported on their age when submitting complaints with the Agency while 31 individuals did not report their age. The youngest complainant was 18 years old while the oldest was 77 years old. Figure 10 below provide details about complainants' age group for this reporting period.

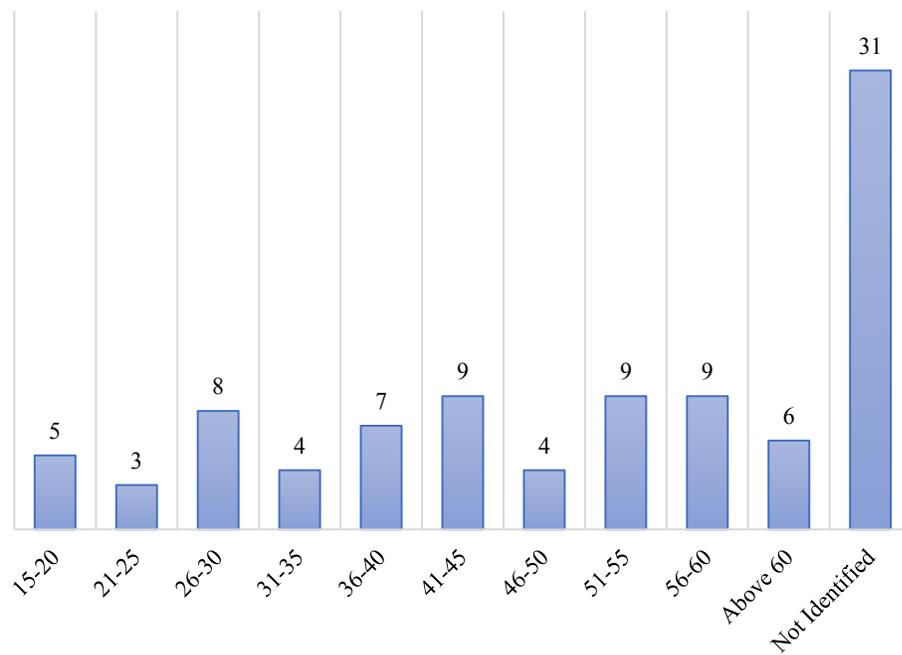


Figure 10. Complainants Median Age  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021

### Section III. APD Use of Force Incidents

The information underlined in this section will report on the number of Use of Force incidents that were investigated by Internal Affairs Force Division (IAFD) during this reporting period and the CPOAB review of Level 3 Use of Force cases. There was a total of 261 Level 1 and 2 and 42 Level 3/Serious Uses of Force (SUOF) cases reported by IAFD to the CPOAB from the period beginning July 1<sup>st</sup> 2021 and ending December 31<sup>st</sup> 2021. Sub-sections below provide detailed information regarding area commands where these incidents occurred, call type associated with force events and serious uses of force cases that were reviewed by the CPOAB during this reporting period.

SOP 2-53 (Use of Force-Definitions) outlines the list of all events which will be classified among three force levels. All Level 3 force incidents will be identified as serious uses of force in this report. Different level of force is defined as:

- **Level 1 Use of Force:** Force that is likely to cause only transitory pain, disorientation, and/or discomfort during its application as a means of gaining compliance.
  - a. This includes techniques that are not reasonably expected to cause injury, do not result in an actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing).
  - b. Shows of force, including: pointing a firearm, beanbag shotgun, 40-millimeter impact launcher, OC spray, or ECW at an individual, or using an ECW to “paint” an individual with the laser sight or utilizing a warning arc. A show of force is reportable as a Level 1 use of force.
  - c. Level 1 use of force does not include interaction meant to guide, assist, or control an individual who is offering minimal resistance.
  
- **Level 2 Use of Force:** Force that causes injury, could reasonably be expected to cause injury, or results in a complaint of injury.

- a. Level 2 use of force includes: i. Use of an ECW, including where an ECW is fired at an individual but misses; ii. Use of a beanbag shotgun or 40-millimeter impact launcher, including where it is fired at an individual but misses; iii. OC spray use including where it is sprayed at an individual but misses; iv. Empty-hand techniques (e.g., strikes, kicks, takedowns, distraction techniques, or leg sweeps); and v. Strikes and attempted strikes with impact weapons. This excludes strikes to the head, neck, throat, chest, or groin, with a beanbag shotgun or 40-millimeter impact launcher and strikes to the head, neck, throat, torso, or groin with a baton or improvised impact weapon, which are considered Level 3 uses of force.
- **Level 3 Use of Force:** Force that results in, or could reasonably result in, serious physical injury, hospitalization, or death.
    - a. Level 3 use of force includes: i. Use of deadly force; ii. Critical firearm discharges; iii. Use of force resulting in death or serious physical injury; iv. Use of force resulting in hospitalization; v. Strikes to the head, neck, throat, chest, or groin with a beanbag shotgun or 40-millimeter impact launcher and strikes to the head, neck, throat, torso, or groin with a baton or improvised impact weapon; vi. Use of force resulting in a loss of consciousness; vii. Police Service Dog bites; viii. Three or more applications of an ECW on an individual during a single interaction, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different officers; ix. ECW application on an individual during a single interaction for longer than 15 seconds, whether continuous or consecutive, regardless of the mode of application; x. Neck holds; xi. Four or more strikes with a baton or improvised impact weapon; and xii. Any Level 2 use of force against a handcuffed individual.

## Level of Force Used by Area Commands

Among all use of force incidents, majority of the events occurred in southeast area command totaling 77 events. For southeast area command, level 1 force was investigated 15 times, level 2 force 51 times while level 3 force event was investigated 11 times during the reporting period. Note that IAFD does not investigate level 1 use of force and these are forwarded to the respective area commands. Prisoner Transport Center (PTC) is within valley area command’s jurisdiction, however cases occurring at PTC are reported separately. Out of Area suggests use of force incidents occurring outside the jurisdiction of APD area commands. Breakdown of force incidents that occurred during these six months by the area command for all levels of use of force is highlighted in the figure below.

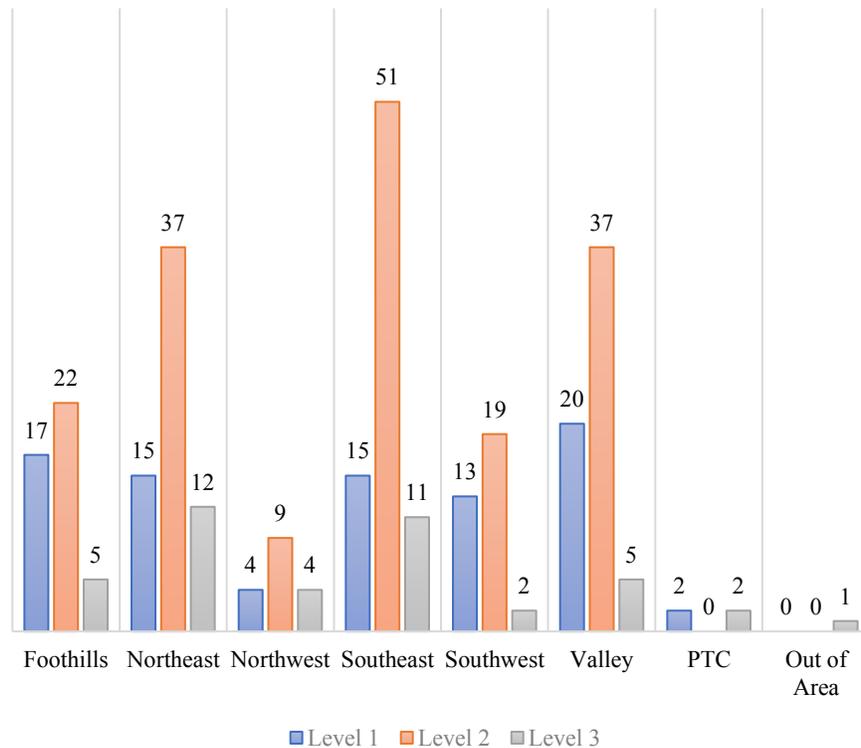


Figure 11. Level of force incidents by APD Area Commands  
PTC: Prisoner Transport Center  
Data Source: IAFD report to CPOAB- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021

## Type of Calls associated with Force Event

For a total of 303 use of force cases during these six months, it is important to identify what type of calls led to these force events. This sub-section will provide count of all call types which resulted in officer using some level of force against an individual(s). As seen in the table below, majority of the calls leading to a Use of Force event resulted from ‘Family Dispute’ and ‘Disturbance’. Complete list of these calls by count is provided in the table below.

Call Type	Count
Aggravated Assault/Battery	21
Aggressive Driver	2
Alarm	1
Armed Robbery Commercial	6
Armed Robbery Individual	2
Auto Theft	8
Auto/Carjacking	2
Bait Vehicle Theft	3
Behavioral Health	3
Burglary Auto	4
Burglary Commercial	9
Burglary Residence	7
Child Neglect	2
Contact	1
Continuation-Early Force Event	6
Disturbance	51
DOA	1
Drunk Driver	9
Family Dispute	43
Fight in Progress	3
Fire Call	1
Kid/Abduct/Hostage	1
Narcotics	2
Onsite Disturbance	2
Onsite Suspicious Person/Vehicle	26
Panhandlers	1
P-Watch	1
Sex Offense	5
Shooting	1
Shots Fired	4
Shoplifting	7
Stolen Vehicle Found	2
Suicide	14
Suspicious Person/Vehicle	23
SWAT	6
Tactical Assistance	2
Theft/Fraud/Embezzlement	2

Traffic Accident/Injuries	2
Traffic Accident/No Injuries	1
Traffic Stop	2
Vandalism	2
Wanted Person	12
<b>Total</b>	<b>303</b>

*Table 8. Call types associated with use of force event  
Data Source: IA Pro- July 1<sup>st</sup> 2021-December 31<sup>st</sup> 2021*

### CPOAB Review of SUOF/Level 3 UOF cases

The Board during this reporting period reviewed 31 Serious Use of Force Cases. As defined in the policy, the Board review these cases after the review by the Force Review Board. List of SUOF cases, the CPOA Executive Director findings and the Board’s disposition of these cases is identified below. Note that the Executive Director was not available to present CPOA findings to the Board for the last two months of this reporting period due to his resignation. These cases were presented to the Board by the Board appointed SUOF case manager Dr. William Kass for the months of November and December. For these two months, the Board voted to agree or disagree with the findings of the FRB rather than the findings of the CPOA Executive Director.

1- **APD Case # 18-0068735** (See Appendix III-8):

The CPOA review finds → Officer’s 1 conduct ‘**Exonerated**’ for the Use of Force where the investigation determines, by a preponderance of the evidence, the alleged conduct did occur but did not violate APD policies, procedures, or training. The CPOAB concurs with the findings of the CPOA in this case.

2- **APD Case # 19-0056389** (See Appendix III-9):

The CPOA review finds → Officer’s 1 conduct ‘**Exonerated**’ for the Use of Force where the investigation determines, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training. The CPOAB concurs with the findings of the CPOA in this case.

3- **APD Case # 19-0080914** (See Appendix III-10):

The CPOA review finds→ Officer's 1 conduct '**Exonerated**' for the Use of Force where the investigation determines, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training. The CPOAB concurs with the findings of the CPOA in this case.

4- **APD Case # 19-0096461** (See Appendix III-11):

The CPOA review finds→ Sergeant's 1 conduct '**Sustained**' for the Use of Force where the investigation determines, by preponderance of the evidence that the alleged misconduct did occur. The CPOAB concurs with the findings of the CPOA in this case.

5- **APD Case # 19-0105587** (See Appendix III-12):

The CPOA review finds→ Sergeant's 1 conduct '**Exonerated**' for the Use of Force where the investigation determines, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training. The CPOAB concurs with the findings of the CPOA in this case.

6- **APD Case # 20-0000295** (See Appendix III-13):

The CPOA review finds→ Officer's 1 conduct '**Exonerated**' for the Use of Force where the investigation determines, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training. The CPOAB concurs with the findings of the CPOA in this case.

7- **APD Case # 19-0077270**:

The CPOAB at the meeting on August 12<sup>th</sup> 2021 voted to adopt a letter and send to the APD Chief expressing CPOA Board concerns with OIS 19-0077270 and requested a written and an oral report to explain the findings of the FRB at the September 2021 CPOA Board meeting. At November 4<sup>th</sup> 2021 CPOAB meeting, IAFD Acting Commander Richard Evans provided a report in response to the CPOA Board's request made in August. Board voted to accept the report. The case was tabled again till the next meeting. At December 9<sup>th</sup> 2021 meeting, the CPOAB voted to table the case again until more information about the case is provided by APD.

8- **APD Case # 20-0024693** (See Appendix III-14):

The CPOA review finds→ Officer's 1 conduct '**Exonerated**' for the Use of Force where the investigation determines, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training. The CPOAB concurs with the findings of the CPOA in this case.

9- **APD Case # 20-0063885** (See Appendix III-15):

The CPOA review finds→ Officer's 1 conduct '**Exonerated**' for the Use of Force where the investigation determines, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training. The CPOAB concurs with the findings of the CPOA in this case.

10- **APD Case # 20-0003358** (See Appendix III-16):

The CPOA review finds→ Officer's 1 conduct '**Exonerated**' for the Use of Force where the investigation determines, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training. The CPOAB concurs with the findings of the CPOA in this case.

11- **APD Case # 20-0060676/20-0060662** (See Appendix III-17):

The CPOA review finds→ Officer's 1 conduct '**Exonerated**' for the Use of Force where the investigation determines, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training. The CPOAB concurs with the findings of the CPOA in this case.

12- **APD Case # 20-0034126/20-0034103** (See Appendix III-18):

The CPOA review finds→ Officer's 1 & Sergeant's 1 conduct '**Sustained**' for the Use of Force where the investigation determines, by preponderance of the evidence that the alleged misconduct did occur. The CPOAB concurs with the findings of the CPOA in this case.

13- **APD Case # 20-0013885** (See Appendix III-19):

The CPOA review finds → Officer 1, Officer 2, Officer 3 & Acting Sergeant 1's conduct '**Exonerated**' for the Use of Force where the investigation determines, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training. The CPOAB concurs with the findings of the CPOA in this case.

14- **APD Case # 20-0018491** (See Appendix III-20):

The CPOA review finds → Officer's 1 & Officer 2's conduct '**Exonerated**' for the Use of Force where the investigation determines, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training. The CPOAB concurs with the findings of the CPOA in this case.

15- **APD Case # 20-0004795** (See Appendix III-21):

The case involved a level 3 use of force, resisted handcuffing causing injury. The FRB found the force '**Within Policy**'. The CPOA agrees with the finding of the FRB and the CPOAB concurs with the CPOA in this case.

16- **APD Case # 21-0000606** (See Appendix III-22):

The case involved a level 3 use of force, resisted handcuffing causing injury. The FRB found the force '**Within Policy**'. The CPOA agrees with the finding of the FRB and the CPOAB concurs with the CPOA in this case.

17- **APD Case # 20-0064745** (See Appendix III-23):

The case involved a level 3 use of force, takedown while handcuffed. The FRB found the force '**Within Policy**'. The CPOA agrees with the finding of the FRB and the CPOAB concurs with the CPOA in this case.

18- **APD Case # 20-0014757/20-0014813** (See Appendix III-24):

The case involved a level 3 use of force, K9 deployment and K9 use of force. The FRB found the force '**Within Policy**'. The CPOA agrees with the finding of the FRB and the CPOAB concurs with the CPOA in this case.

**19- APD Case # 20-0026269/20-0026264** (See Appendix III-25):

The case involved a level 3 use of force, K9 deployment and K9 use of force. The FRB found the force **‘Within Policy’**. The CPOA agrees with the finding of the FRB and the CPOAB concurs with the CPOA in this case.

**20- APD Case # 20-0047022** (See Appendix III-26):

The case involved a level 3 use of force, electronic control weapon (ECW). The ECW was deployed multiple times, and the force caused injury. The FRB found the force **‘Within Policy’**. The CPOA agrees with the finding of the FRB and the CPOAB concurs with the CPOA in this case.

**21- APD Case # 20-0037851:**

The Executive Director report regarding the review of this case was not available. The CPOAB member Dr. William Kass provided the synopsis of the case from the FRB report. The case involved a level 3 use of force, force used on handcuffed individual. The FRB found the force **‘Within Policy’**. The CPOAB concurs with the findings of the FRB in this case.

**22- APD Case # 20-0051552:**

The Executive Director report regarding the review of this case was not available. The CPOAB member Dr. William Kass provided the synopsis of the case from the FRB report. The case involved a level 3 use of force, force used on handcuffed individual. The FRB found the force **‘Within Policy’**. The CPOAB concurs with the findings of the FRB in this case.

**23- APD Case # 21-0001037:**

The Executive Director report regarding the review of this case was not available. The CPOAB member Dr. William Kass provided the synopsis of the case from the FRB report. The case involved a level 3 use of force, force used on handcuffed individual. The FRB

found the force **'Within Policy'**. The CPOAB concurs with the findings of the FRB in this case.

**24- APD Case # 21-0015637:**

The Executive Director report regarding the review of this case was not available. The CPOAB member Dr. William Kass provided the synopsis of the case from the FRB report. The case involved a level 3 use of force. The IAFD detectives found the force to be **'Out of Policy'** and the FRB agreed with IAFD detectives. The CPOAB concurs with the findings of the FRB in this case.

**25- APD Case # 19-0094605:**

The Executive Director report regarding the review of this case was not available. The CPOAB member Dr. William Kass provided the synopsis of the case from the FRB report. The case involved a level 3 use of force, officer involved shooting. The FRB found the force **'Within Policy'**. The CPOAB concurs with the findings of the FRB in this case.

**26- APD Case # 16-0048656:**

The Executive Director report regarding the review of this case was not available. The CPOAB member Dr. William Kass provided the synopsis of the case from the FRB report. The case involved a level 3 use of force, officer involved shooting. The FRB found the force **'Within Policy'**. The FRB identified concerns related to tactics and training, specific to whether current and upcoming training includes and adequately addresses tactical retreating and containment. The CPOAB concurs with the findings of the FRB in this case.

**27- APD Case # 20-0015405:**

The Executive Director report regarding the review of this case was not available. The CPOAB member Dr. William Kass provided the synopsis of the case from the FRB report. The case involved a level 3 use of force, resisted handcuffing resulting in injuries. The FRB found the force **'Within Policy'**. The CPOAB concurs with the findings of the FRB in this case.

**28- APD Case # 20-0017623:**

The Executive Director report regarding the review of this case was not available. The CPOAB member Dr. William Kass provided the synopsis of the case from the FRB report. The case involved a level 3 use of force, strike with improvised weapon and resisted handcuffing resulting in injuries. The IAFD detectives found the force to be **'Out of Policy'** for use of intermediate weapons and the FRB agreed with IAFD detectives. The CPOAB concurs with the findings of the FRB in this case.

**29- APD Case # 20-0037586:**

The Executive Director report regarding the review of this case was not available. The CPOAB member Dr. William Kass provided the synopsis of the case from the FRB report. The case involved a level 3 use of force, empty hand strike while handcuffed and resisted handcuffing resulting in injuries. The FRB found the force **'Out of Policy'**. The IAFD detectives also identified additional concerns relating to training and supervision as well as a constitutional violation found where an officer removed property from subject's pockets on two separate occasions prior to establishing probable cause for an arrest. The CPOAB concurs with the findings of the FRB in this case.

**30- APD Case # 20-0043667:**

The Executive Director report regarding the review of this case was not available. The CPOAB member Dr. William Kass provided the synopsis of the case from the FRB report. The case involved a level 3 use of force, resisting arrest. The FRB found the force to be **'Within Policy'**. The CPOAB concurs with the findings of the FRB in this case.

**31- APD Case # 20-0044826:**

The Executive Director report regarding the review of this case was not available. The CPOAB member Dr. William Kass provided the synopsis of the case from the FRB report. The case involved a level 3 use of force, firearm discharge. The FRB found the force to be **'Out of Policy'**. The IAFD detectives also identified additional concerns relating to training. The CPOAB concurs with the findings of the FRB in this case.

## Section IV. Public Outreach

This section highlights public outreach initiatives undertaken by the CPOA and the Board during this reporting period. In response to the Governor’s public health order, CPOA/CPOAB continued all public meetings via Zoom video conference. There was a total

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**Mission Statement**  
“Outreach will promote the mission of the CPOAB and be the bridge for communication with the community.”

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of *eight* monthly CPOAB meetings held during the reporting period to include *two* special meetings. Also, there was a total of *four* Community Outreach sub-committee meetings held during this period. All meetings were held via zoom videoconference. Member Chantal Galloway continued her role as the Chair of the Outreach sub-committee for this period. Sub-committee efforts were focused on supporting the needs of the Agency and the Board, while also including the ongoing community engagement between the CPOA and the community policing councils (CPC’s). Public Outreach activities during this reporting period are highlighted below:

- Community Engagement Specialist position remained unfilled till the end of this reporting period. During August 24<sup>th</sup> 2021 outreach sub-committee meeting, it was noted that there was a total of 42 applications received for the position. At October 26<sup>th</sup> 2021 sub-committee meeting, Director Harness updated that the CPOA is still waiting to receive pre-screened applications for the position from City’s Human Resources.
- At July 27<sup>th</sup> 2021 outreach sub-committee meeting, Mariela Ruiz-Angel, Director of the Albuquerque Community Safety (ACS) Department gave a verbal presentation on ACS role to assist APD and AFR in responding to calls that do not require police or fire response. Ms. Ruiz-Angel provided the sub-committee members with the PowerPoint presentation to inform about the role and functions of the newly created department. Director Harness expressed that the CPOA should utilize ACS as a referral service to resolve citizen complaints from the complainants dealing with mental distress.

- Outreach sub-committee discussed the creation of a CPC YouTube channel, public meetings moving back to in-person, the CPC policy recommendation process to APD and the MOU between the CPOA and CPC's which remained a work in progress.
- The sub-committee discussed the training and guidance for new Board members onboarding process. The discussions surrounded the topics of technology checklists, technology check-ins to ensure there are no issues with use of computers or accessing the necessary information, understanding attachments or materials uploaded in SharePoint for Board's review, how to do a case review and initial outreach from the chair to new Board member's on their expectations was discussed.
- CPC Liaison Kelly Mensah updated the Outreach sub-committee on continued discussions at CPCs regarding going back to in-person events. Mr. Mensah also notified the sub-committee on getting Business Cards, rescheduling Coffee with a Cop, CPC website separation from the CPOA and also working with Lt. Jennifer Garcia on Officer safety and how to improve it.
- Outreach sub-committee Chair Galloway and Director Harness discussed momentum to move the ordinance in line with CASA as it relates to Board requirements and trainings.
- Outreach sub-committee discussed the compilation of all ordinance revisions over the last few years and start the process of refining the list into more cohesive talking points that can be utilized by the Board members at future meetings with the councilors. The sub-committee decided to hold-off on this matter due to elections and until new council is in place.
- At September 28<sup>th</sup> 2021 outreach sub-committee meeting, CPC Office Assistant Marteessa Billy provided updates regarding the CPCs. She noted that the CPC's have placed orders for tents and table cloths to support live events, had a diversity meeting in which discussions were held to appeal to nontraditional communities to get them more involved in the CPCs, attended the NW Coffee with a COP event at Chick Fill A on Coors with local police and invited a few attendees to the workshops, and attended an event hosted by Westside Democrats related to community policing. The CPC's also received an invitation

to support community block parties hosted by the Office of Diversity and Inclusion every Saturday from October 2021 to February 2022. City Counselor Diane Gibson will be hosting an appreciation event on November 18, 2021.

- The sub-committee also discussed and recommended the Board to proceed with a proposal on a new on-boarding procedure that will break down training obligations as well as assign a board member to assist a new member through the process of joining the Board.
- CPC Office Assistant reported that CPC members have been attending block parties and provided an update on CPC memberships. She notified the sub-committee about the town halls occurring every weekend to add around 20 across the city.
- The Outreach sub-committee, Director Harness and the CPOA staff discussed how to provide more education to the public and City Councilors on the role of the CPOA Board and engaging Board Members to attend events throughout the City of Albuquerque to promote the CPOA Board and its functions.
- Chair of the Outreach sub-committee provided an update on the CPOAB calendar and noted that is up and running for the purposes of scheduling members to attend various events/meetings to avoid quorum issues.
- Extensive discussions surrounded the topic of Board's outreach activities in 2022 to familiarize the community with the work of the Agency and the Board. Potential outreach events included; Neighborhood associations, annual neighborhood fiestas, OEI sponsored block parties, community events listed on city's event page, CPC meetings and an event for city council and staff.

## Section V. CPOA/Board Policy Activities, Policy Recommendations provided to APD, CPOAB Training Status & Legislative Amendments to Oversight Ordinance and Policies and Procedures

As defined in the Oversight Ordinance, an important role of the CPOA/Board is to *“Provide input, guidance and recommendations to the City Council, the Mayor and the Chief of Police for the development of policy for the Albuquerque Police Department”*. The Oversight Ordinance requires the Board and the Agency to recommend policies, training, programs, and other procedural suggestions to the APD. The Oversight Ordinance stipulates *“The Board must dedicate a majority (more than 50%) of its time to policy recommendations”*. This section provides a snapshot of the activities that the Board dedicated to policy and other important matters related to APD during the current reporting period. During the first year of its existence the Board created a set of operating procedures designed to meet their obligations per the Oversight Ordinance. To serve this mission, the Board created Policy and Procedures Review Sub-Committee (PnP) that reviews APD policies and procedures, and makes recommendations on changes to ensure that compliance and consistency aligns with the CPOA’s mission.

A critical function of the CPOA and the Board is to provide information regarding the APD policy processes to the public. This function is enhanced when CPOA/Board participates directly in the policy development process at APD and reports the results to the public. CPOA/Board recommendations are given serious consideration in the APD policy development and review process. Board members, the CPOA Executive Director and staff regularly participate in Policy and Procedure Unit (formerly Office of Policy Analysis OPA) meetings where new policies and modifications to existing policies are presented for review by APD subject matter experts. The members are presented with the opportunity to ask questions and recommend policy changes. The Board designee and the CPOA Executive Director also attend the Policy and Procedures Review Board (PPRB) meetings to finalize and vote on the SOPs before they reach the CPOAB for a 30-day review, the DOJ & the independent monitor (if it is CASA related policy) and the Chief of APD for final approval prior to publishing.

Starting July 1<sup>st</sup> 2021 and ending December 31<sup>st</sup> 2021, CPOA/Board were involved in numerous policy related activities and discussed several other issues and matters going-on at the department. These activities are listed below:

- A total of 11 APD Policy and Procedures Review Unit (formerly Office of Policy Analysis) meetings were held during the last *six* months of 2021. List of Standard Operating Procedures that were presented at these meetings includes the following:

	<b>Policies presented at Policy and Procedures Review Unit</b>
1	SOP 2-52 Use of Force-General
2	SOP 2-53 Use of Force-Definitions
3	SOP 2-54 Intermediate Weapon Systems
4	SOP 2-55 Use of Force-De-escalation
5	SOP 1-95 Metro Traffic Division
6	SOP 2-9 Use of Computer Systems
7	SOP 2-20 Hostage Situations, Barricaded Individuals, and Tactical Threat Assessment
8	SOP 2-22 Juvenile Delinquency
9	SOP 2-97 Harm Reduction Act/Methadone Distribution Centers
10	SOP 2-112 Violence Intervention Program (VIP) Call-Ins
11	SOP 3-43 Relief of Duty
12	SOP 3-45 Due Process Notification Personnel
13	SOP 3-52 (Formerly 3-29 and 3-65) Policy Development Process
14	SOP 1-26 Special Victims Section
15	SOP 2-39 (Currently 4-21) Field Services Bureau Response to Incidents and Events
16	SOP 2-45 Pursuit by Motor Vehicle
17	SOP 2-82 Restraints and Transportation of Individuals
18	SOP 2-92 Crimes Against Children Investigations
19	SOP 3-14 Supervision
20	SOP 3-51 Department Orders
21	SOP 4-10 Monthly Reports
22	SOP 1-19 Shield Unit

23	SOP 1-39 (Formerly 6-4) DWI Unit
24	SOP 2-4 Use of Respirators
25	SOP 2-79 Law Enforcement Assisted Diversion (LEAD) Program
26	SOP 2-85 Certificate for Evaluation
27	SOP 3-32 Employee Work Plan/Performance Evaluations
28	SOP 1-58 Crime Gun Intelligence Center
29	SOP 2-16 Records
30	SOP 2-30 Emergency Command Post
31	SOP 2-71 Search and Seizure without a Warrant
32	SOP 2-87 Graffiti
33	SOP 2-100 (Currently 2-01 and 9-1) Emergency Communication Center (ECC)
34	SOP 1-5 Harassment/Sexual Harassment in the Workplace
35	SOP 1-42 (Formerly 6-7) Bomb Squad (Formerly Explosive Ordnance Disposal (EOD) Unit)
36	SOP 1-67 (Currently 7-2 and 7-3) Multi-Agency Task Force (MATF)
37	SOP 1-85 (Currently 6-2) Recruiting Unit
38	SOP 1-88 Sex Crimes Unit
39	SOP 2-24 Hazardous Material Incident Response
40	SOP 2-82 Restraints and Transportation of Individuals
41	SOP 2-90 (Currently 6-2) Background Investigations
42	SOP 3-17 Duty Assignments and Transfers
43	SOP 1-62 (Currently 7-1) Internal Affairs Professional Standards (IAPS) Division
44	SOP 1-82 (Currently 4-8) Property Crime Reporting Technicians (PSA II)
45	SOP 2-3 Firearms and Ammunition Authorization
46	SOP 2-29 Child Exploitation Detail (CED)
47	SOP 2-35 Emergency Response Team (ERT)
48	SOP 2-106 (Currently 4-27) Lost and Found ID Cards and Driver's Licenses
49	SOP 3-42 Criminal Investigation of Police Personnel
50	SOP 3-47 Acceptance of Disciplinary Action and Right to Appeal
51	SOP 2-56 Use of Force-Reporting by Department Personnel
52	SOP 2-57 Use of Force-Review and Investigation by Department Personnel
53	SOP 1-4 Biased Based Policing/Profiling

54	SOP 1-16 (Formerly 5-11) Auto Theft Unit
55	SOP 2-93 Child Abduction/Missing Child Investigations
56	SOP 2-104 (Currently 4-24) Civil Disputes
57	SOP 1-25 Chaplain Unit
58	SOP 1-45 (Formerly 5-3) Family Abuse & Stalking Training Team (FASTT)
59	SOP 2-2 Department Property
60	SOP 2-6 Use of Emergency Warning Equipment
61	SOP 2-41 Traffic Stops
62	SOP 2-58 (Formerly 2-56) Force Review Board
63	SOP 1-20 (Formerly 1-11) Behavioral Sciences Section
64	SOP 1-28 (Formerly 4-3) Downtown Unit (Formerly Community Response Unit)
65	SOP 1-34 (Formerly 4-5) Crime Prevention Section
66	SOP 1-37 (Formerly 2-13) Crisis Intervention Section (CIS) and Program
67	SOP 2-8 Use of On-Body Recording Devices (OBRD)
68	SOP 2-19 Response to Behavioral Health Issues
69	SOP 2-38 (Formerly 4-13) Daily Staffing and Briefings

- A total of 10 APD Policy and Procedures Review Board (PPRB) meetings were held during this reporting period. List of SOPs and forms that were presented at these meeting includes the following:

<b>Policies and Forms presented at PPRB</b>	
1	Form- Chain of Command Discipline Recommendation Form
2	Form- Custom Notification Gun Buy-Back Receipt
3	Form- Discovery Coversheet
4	Form- Bulletin Master Template
5	Form- Gang Information Card
6	Form- Juvenile Advise of Rights
7	SOP 1-14 Rapid Accountability Diversion (RAD) Program
8	SOP 1-17 (Currently 4-9) Aviation Division
9	SOP 1-31 Court Services Unit
10	SOP 1-44 False Alarm Reduction Unit (to be archived)

11	SOP 1-80 (Formerly 6-5) Prisoner Transport Unit
12	SOP 1-84 (Currently 8-4) Records Division
13	SOP 2-72 (Currently 2-91) Procedures for Serious Crimes Call-Outs
14	SOP 2-111 Records Division Unit
15	SOP 3-23 Retirement Observance
16	SOP 3-29 (Currently 4-12) Issuance and Usage of Area Command Equipment
17	Form- Evidence Disposition
18	Form- Post-Pursuit Checklist
19	Form- Use of Force Canvass Guide
20	Form- Applicant Additional Documents
21	Form- Crime Gun Intelligence Center Feedback Form
22	Form- Supervisor-Mandated Referrals
23	Form- P&P Meeting Minutes Template
24	Form- PPRB Minutes Template
25	Form- Extreme Risk Firearm Protection Order Relinquishment
26	SOP 1-2 Social Media
27	SOP 1-12 (Formerly 1-45) Volunteer and Internship Program
28	SOP 1-22 (Currently 2-89) Automated License Plate Reader Program
29	SOP 1-35 (Formerly 5-8) Crime Scene Specialist (CSS) Unit
30	SOP 1-75 (Formerly 8-1) Planning Division
31	SOP 2-63 Crime Stoppers Investigations
32	SOP 2-113 Custom Notifications Gun Buy-Back Program
33	Form- P&P Agenda Template
34	Form- P&P Sign-In Sheet
35	Form- PPRB Vote Log Template
36	Form- PPRB Sign in Sheet
37	Form- No-Score PT Form
38	SOP 1-86 Report Review Unit (to be archived)
39	SOP 1-90 (Currently 5-1) Investigative Services Division
40	SOP 2-59 Extreme Risk Firearm Protection Order
41	SOP 2-108 Electronic Communications Privacy Act
42	SOP 3-11 Command Staff Responsibilities

43	SOP 3-31 (Formerly 3-83) Physical Fitness Assessment
44	Form- Major Crime Scene Team Firearm Issuance Form
45	SOP 1-57 Identification Disposition Unit
46	SOP 2-5 Department Vehicles
47	SOP 2-84 Body Cavity and Strip Searches
48	SOP 2-97 Harm Reduction Act Methadone Distribution Centers (to be archived)
49	SOP 2-112 Violence Intervention Program Call-In (Gun Violence Demonstration Enforcement Action)
50	SOP 3-15 Sworn Personnel Positions and Seniority
51	SOP 3-16 Seniority (to be archived)
52	SOP 3-52 (Formerly 3-29) Policy Development Process
53	Form- Major Crime Scene Team Firearm Issuance Form
54	Form- Witness Statement
55	SOP 2-9 Use of Computer Systems
56	SOP 2-20 Hostage Situations, Barricaded Individuals, and Tactical Threat Assessments
57	SOP 2-45 Pursuit by Motor Vehicle
58	SOP 2-81 Off Duty; Power of Arrest
59	SOP 2-92 (Formerly 5-4-4) Crimes Against Children Investigations
60	SOP 3-14 Supervision
61	SOP 3-30 Line Inspection Process
62	SOP 3-40 Civil Litigation Process
63	SOP 3-45 Due Process Notification Personnel
64	SOP 3-51 Department Orders
65	SOP 4-10 Monthly Reports
66	Form- Civilian Clearance Form
67	Form- Sworn Clearance Form
68	SOP 1-19 Shield Unit
69	SOP 1-21 (Formerly 4-14) Bicycle Patrol
70	SOP 1-26 (Currently 5-4) Special Victims Section
71	SOP 1-83 (Currently 5-9 and 5-10) Real Time Crime Center
72	SOP 2-28 (Formerly 3-20) Flood Control Channel Action Plan
73	SOP 2-30 Emergency Command Post
74	SOP 2-39 Field Services Bureau Response to Demonstrations, Incidents, and Events

75	SOP 2-85 Certificate for Evaluation
76	SOP 2-99 (Formerly 1-8) Naloxone Policy
77	SOP 3-11 Command Staff Responsibilities
78	SOP 3-32 Performance Evaluations
79	Form- Data Governance/Change Request Form
80	Form- Pre-Deployment Risk Assessment
81	SOP 1-3 Grooming Standards
82	SOP 1-42 (Formerly 6-7) Bomb Squad
83	SOP 1-88 Sex Crimes Unit
84	SOP 1-95 (Formerly 6-3) Metro Traffic Division
85	SOP 2-4 Use of Respirators
86	SOP 2-79 Law Enforcement Assisted Diversion (LEAD) Program
87	Form- Risk Assessment Matrix Packet
88	Form- Area Command/Division Internal Complaint Disposition Form
89	Form- Pawn Shop/Secondhand Property Receipt
90	Form- Template for Special Order that does not Amend a SOP
91	Form- Demonstration Post Form for Non-ERT Callout
92	SOP 1-5 Harassment/Sexual Harassment in the Workplace
93	SOP 1-67 Multi-Agency Task Force
94	SOP 1-82 (Currently 4-8) Property Crimes Reporting Technician (To be archived)
95	SOP 1-85 (Currently 6-2) Recruiting Unit
96	SOP 1-93 (Currently 8-11) Telephone Reporting Unit
97	SOP 2-87 Graffiti Cases (To be archived)
98	SOP 2-90 (Currently 6-2) Background Investigations
99	SOP 1-62 (Currently 7-1) Internal Affairs Professional Standards Division
100	SOP 2-16 Reports
101	SOP 2-24 Hazardous Material Incident Response
102	SOP 2-29 (Currently 5-4) Child Exploitation Detail (CED)
103	SOP 3-20 Overtime, Compensatory Time, and Work Shift Designation
104	SOP 3-42 Criminal Investigation of Department Personnel
105	SOP 3-43 Relief of Duty

106	SOP 3-47 Acceptance of Disciplinary Action and Right to Appeal
107	SOP 1-45 (Formerly 5-3) Family Abuse & Stalking Training Team
108	SOP 2-3 Firearms and Ammunition Authorization
109	SOP 2-93 Child Abduction/Missing Child Investigations
110	SOP 3-17 Duty Assignments and Transfers

- The Executive Director of the Agency resigned during this reporting period. Mr. Edward Harness served the City and the Agency for a period of six years.
- A sitting Board member of the Civilian Police Oversight Agency Board Mr. Douglas Mitchell passed away during this reporting period. He served on the Board for a period of approximately one and a half year.
- Several members of the Board to include Chair Eric Olivas, Tara Armijo-Prewitt, Gionne Ralph and Richard Johnson resigned from the Board during this reporting period leaving a total of 5 members on the Board by the end of the reporting period. At the start of the reporting period, the Board after a long time was fully staffed with 9 members.
- On July 1<sup>st</sup> 2021, Executive Director spoke with APD Lateral class which included 4 IAFD civilian investigators. These are un-classified employees and the first civilian investigators to work in IAFD. They do not have a union representation.
- From December 12-16, 2021, NACOLE in-person conference was held in Tucson Arizona. Several members of the CPOA Board and the Agency attended.
- The CPOAB discussed the administratively closing complaints as a result of officer employment status. It was discussed at the policy and procedures review sub-committee that administratively closing complaints when an officer is no longer employed is a complex topic that requires many considerations to weigh the use of resources to the potential benefits that could be gained. There was significant discussion by the sub-committee members regarding the ability of APD to add complaints to the record of

officers that have left APD so that future employment in law enforcement is affected and how information might be shared with other agencies.

- The CPOAB policy and procedures review sub-committee discussed additional activities that could be used as a substitute for patrol ride-along. This issue had been discussed earlier at a meeting with the IMT who agreed that expanding the ride-along activities would be beneficial to the CPOA Board members. Among the suggestions were: detective training, forensics lab, Training academy, Canine unit, RTCC, Communication Center, On call victims advocate, Family advocacy center, Records center.
- The CPOA has recommended that citizen complaints that involve minor violations by officers be resolved by the Area Command of the officer involved. This would result in quicker resolution of the issue, alert the Area Command to a possible need to increase attention on that officer behavior, and reduce the workload on the CPOA investigators. This topic has also been discussed with the IMT. It would be necessary to modify language in SOP 3-41 as well as other actions in order to fully implement such a plan. A letter to the Chief of police was sent by the CPOAB to incorporate such changes.
- As it pertains to Board vacancies and City Council appointments, CPOA legal counsel reported that a stipulated order is presented by the DOJ to the city on this issue. This is done to address the systemic problems that existed for the last three years in getting Board vacancies filled. Legal counsel also noted that the City Attorney's office is considering this task as a priority.
- The CPOAB voted to adopt the updated job description for the position of the Executive Director during the monthly Board meeting on July 8<sup>th</sup> 2021.
- The Chair of the CPOAB notified the Board that the letter to the Chief Administrative Officer (CAO) regarding increasing timelines for the CPOA investigation was sent by the Executive Director at the request of the Board. The CAO responded that the negotiations are ongoing and confidential and the CPOAB consideration will be taken under advisement.

- At the July 8<sup>th</sup> 2021 monthly Board meeting, the Executive Director updated the CPOAB on the guidance from the City Clerk that the Boards are beginning to meet in person and also have a hybrid option moving forward utilizing WebEx. The CPOAB closed sessions and sub-committee meetings will continue via zoom.
- At the last reporting period, the Board discussed the Independent Monitoring Team request for providing mechanism or testing matrix that identifies members of the Board received required training mandated by the Oversight Ordinance and the CASA. The CPOAB voted to approve a post-training testing form which will be provided to the monitoring team once a particular police oversight training is completed.
- The CPOAB voted to seek approval from the IMT to set a standard of a minimum of 8 hours of ‘Ride Along’ time to be used to satisfy the requirement of two ride along/6-month requirement set forth in the CASA. The 8 hours can be broken up as needed to accommodate board member’s schedule.
- During the July 8<sup>th</sup> 2021 monthly Board meeting, after closed session deliberations for Executive Director Appointment/Contract, the CPOAB voted to open the position of the CPOA Executive Director to applicants. The Board also encouraged the current Executive Director to reapply for the position. The Board also voted to delegate any administrative functions to open the position to the Chair to move forward with the Human Resource process.
- At August 12<sup>th</sup> 2021 monthly meeting, Commander Renae McDermott and Lieutenant Michael Meisinger provided APD semi-annual training academy update. Commander McDermott joined APD academy very recently, retiring from the FBI after 32 years and served as the Assistant Director of the FBI academy since 2018. Prior to that she served the FBI in different roles. Lieutenant Meisinger expressed that Commander McDermott will bring great experience and mentorship to everyone at the Training Academy. Commander McDermott and Lieutenant Meisinger also discussed newly created positions and training programs at the Academy.

- APD Data Analyst Katharine Jacobs presented a PowerPoint presentation to the CPOAB on the second quarter of 2021 Force Trends, FRB Process Metrics, Level 3 Empty Hand Techniques and OBRD Analysis.
- Executive Director notified the CPOAB that due to the length of the monthly meetings time, the CPOA were over budget for the New Mexico captioning for Fiscal Year 2021 by over \$1500.
- On August 5<sup>th</sup> 2021, the Executive Director spoke to the 124<sup>th</sup> Cadet class at the Academy.
- The CPOAB was provided a copy of SOP 3-46 (Discipline System) for review. This policy is in the revision process and the Executive Director informed the CPOAB that the revisions being considered changes the definition of misconduct and narrows the scope of cases to be investigated by the CPOA.
- SOP 3-52 Policy Development Process has been under review for almost a year. The most recent version of the policy was approved and published during this reporting period. The review indicates significant improvements were made to the policy and several suggestions made by the policy and procedures review sub-committee were incorporated. Those include step by step policy development process which is now implemented for more clarity, commentary periods prior to publishing a policy by the stakeholders is increased, policy review unit will now aid the policy owner in analyzing applicable data before the first review allowing for trend data and other efficiency measures to be incorporated into the review. The CPOAB approved these changes and praised the hard work of APD policy unit by sending a commendation letter to the Chief. *(See Appendix III-27)*
- Policy and procedures review sub-committee reviewed SOP 1-80 (Prisoner Transport Unit) and flagged this SOP for further review. This SOP deals with transporting prisoner to the Metropolitan Detention Center which is a facility managed by Bernalillo county under an MOU with APD. Conflicts have arisen between APD and MDC when transporting prisoner with medical needs. Sub-committee discussed that adequate means of addressing these problems still needs to be developed.

- SOP 1-2 (Social Media) now allow officers to display photos of themselves in uniform on social media. The policy in part states *“Department personnel are permitted to upload, display, and/or distribute on social media photographs of themselves in uniform or display official Department identification, as long as the photographs do not reflect behavior that is otherwise prohibited while on-duty or that violates SOP Personnel Code of Conduct”*.
- The CPOAB representative at the PPRB, Dr. Willian Kass raised concerns about Automated License Plate Reader Program and asked how this program comports with the recently announced CABQ program to have these license plate readers at selected cooperating businesses to apprehend shoplifters. The PPRB representative notified that these readers were restricted to public roadways by the state law.
- At August 5<sup>th</sup> 2021 policy and procedures review sub-committee, Mr. Darien George who is the managing partner at Mackenzie Eason, an executive search and consulting firm was invited as a guest to provide an evaluation system for hiring police officers. He gave a PowerPoint presentation on hiring of police officers that focused on assessments utilizing data to inform hiring practices, enhanced recruitment to make sure qualified and diverse candidates are coming through the pipeline and post academy support ensuring all officers are set up for a long, successful career in public service. He presented a hiring proposal that would screen police applicants for desirable public servant traits while eliminating applicants with extreme authoritarian traits.
- During the August 12<sup>th</sup> 2021 monthly Board meeting, the CPOAB discussed the backlog of SUOF/OIS cases which are to be reviewed by the CPOAB. Approximately 40 SUOF/OIS cases still needed review as notified by the CPOAB designated SUOF case manager.
- Chair and Vice Chair of the CPOAB provided an update to the Board on the status of the CPOA Board receiving specialized diversity training at the August 12<sup>th</sup> 2021 meeting and informed the Board that there has been no progress with the Office of Equity and Inclusion

Department. Chair Olivas and Vice-Chair Galloway noted they will follow-up with the Office of Equity and Inclusion Department on the request.

- The CPOAB held a special meeting on August 24<sup>th</sup> 2021 to discuss recently approved Use of Force policy suite which includes SOP 2-52 (Use of Force-General), SOP 2-53 (Use of Force: Definitions), SOP 2-54 (Intermediate Weapon Systems), SOP 2-55 (Use of Force-De-escalation). Members of the community including APD Forward and general public were also invited to provide their input for these policies.
- SOP 3-46 (Discipline System) was also reviewed during the special meeting on August 24<sup>th</sup> 2021. APD Commander Zak Cottrell provided an overview of the major changes to SOP 3-46. He also stated that APD post to a National Registrar of officers who lose their certifications.
- APD Performance Metrics Unit Supervisor Cara Garcia provided information on the PMU process, methodology and effectiveness of monthly audits/inspections for the CASA compliance. The unit is responsible for conducting audit for CASA compliance. Ms. Garcia also submitted a PowerPoint presentation titled Performance Metrics Unit to the CPOAB for their review.
- At September 9<sup>th</sup> 2021 monthly Board meeting, the Executive Director notified the CPOAB that 24 writing samples were requested from the investigator position applicants and received 12 responses. 8 out of 12 were interviewed and 4 were identified as possible candidates who are currently undergoing background checks.
- The City Council approved the CPOA's July 1<sup>st</sup> to December 31<sup>st</sup> 2020 semi-annual report.
- At September 9<sup>th</sup> 2021 monthly Board meeting, Chair Olivas updated the Board on the discussions that took place at a meeting with himself, Director Harness, CPOA Counsel, City Legal and the DOJ. The CPOA Board discussed potential changes to the CPOA Oversight Ordinance and schedule pre-conference meeting in October 2021 to review the CPOA Board ideas and thoughts.

- At September 9<sup>th</sup> 2021 monthly Board meeting, Chair Olivas gave an update on the specialized Diversity Training opportunities for CPOA Board Members that are provided by the Office of the Equity and Inclusion Department and recommended Board members attend several of these trainings to remain in compliance with the CPOAB training requirements.
- The CPOAB received the response from the Chief for the ShotSpotter program recommendations provided to APD during the last reporting period. *(See Appendix III-28)*
- APD Sergeant Michael Hernandez participated at the October 28<sup>th</sup> 2021 policy and procedures review sub-committee in response to K-9 data request made by the CPOAB. CPOA Analyst updated the sub-committee on the data received and provided a power point presentation on the use of canine and Sergeant Hernandez provided explanation of the data.
- In response to the SOP 2-98 (Gunshot Detection System procedure) recommendation made by the CPOAB, Deputy Commander Mark Torres from the Real Time Crime Center at the October 24<sup>th</sup> 2021 monthly Board meeting provided first semi-annual brief on introduction to ShotSpotter, how APD runs the program and utilizes the data provided by ShotSpotter.
- Albuquerque Community Safety (ACS) Department Director Mariela Ruiz-Angel provided a power point presentation to the CPOAB at October 14<sup>th</sup> 2021 monthly Board meeting. ACS is the third branch of the City's public safety system along with APD and AFR. ACS sends trained professionals to non-violent and non-medical 911 calls for service involving issues such as mental/behavioral health, homelessness, addiction as well as non-behavioral issues such as abandoned vehicles and needle pick-ups. ACS has four divisions which include community responders, behavioral health responders, street outreach resource coordinator and mobile crisis team (MCT) licensed clinicians.
- Sub-committee changes were made during this reporting period (August 12<sup>th</sup> 2021). New membership includes: **Outreach Sub-committee** Members Chantal Galloway, Doug Mitchell, Eric Nixon and Gionne Ralph. **Policy and Procedure Sub-committee** Members Dr. William Kass, Tara Armijo-Prewitt, Patricia French and Richard Johnson. **Case**

**Review Sub-Committee** Members Richard Johnson, Patricia French, Dr. William Kass and Eric Nixon. **Personnel Sub-committee** Members Eric Olivas, Tara Armijo-Prewitt, Doug Mitchell and Gionne Ralph.

- Sub-committee changes were made during this reporting period (November 4<sup>th</sup> 2021). New membership includes: **Outreach Sub-committee** Members Chantal Galloway, Eric Nixon, Jesse Crawford and Gionne Ralph. **Policy and Procedure Sub-committee** Members Dr. William Kass, Tara Armijo-Prewitt, Patricia French and Jesse Crawford. **Case Review Sub-Committee** Members Dr. William Kass, Eric Nixon, Richard Johnson and Patricia French. **Personnel Sub-committee** Members Eric Olivas, Tara Armijo-Prewitt, Richard Johnson and Gionne Ralph.
- The use-of-force policies were presented at the APD Policy Review Unit meeting on July 14<sup>th</sup> 2021 and reviewed by the Board on August 24<sup>th</sup> 2021. CPOA Analyst prepared several draft recommendations for consideration that affect these policies at the policy and procedure review sub-committee. Some of the suggestions includes; Consideration of whether an individual's failure to comply with officer commands is due to a medical condition physical limitation or other impairment, prohibition of use-of-force as a result of verbal provocation, retaliation or bias, clarification and training regarding verbal warnings prior to using deadly force, possible additional training such as empathy training and addition of BolaWrap technology to add to the less than lethal force array available to officers. Once these SOPs move forward from the Policy Review Unit to the PPRB and the policies are voted to be advanced, the CPOAB will have an additional 30 days to submit formal recommendations to the Chief of APD. This process is described in SOP 3-52.
- The CPOAB held a special board meeting on October 19<sup>th</sup> 2021 to seek public input on the CPOAB and the Agency goal setting and long-term planning. The meeting was held to provide avenue to the members of the community on how they vision the future of the CPOA/CPOAB. The city council is going through ordinance revisions and the purpose of the meeting was to seek public input in regards to what changes would the community members like to see in the revised ordinance.

- Policies that were voted by the Board for ‘No Recommendations’ during this reporting period includes: SOP 1-36 (Officer Wellness Program), SOP 1-54 (Honor Guard Team), SOP 2-75 (Request for Legal Opinions from the City Attorney- archived), SOP 1-14 (Rapid Accountability Diversion (RAD) Program, SOP 1-17 currently 4-9 (Aviation Division), SOP 1-31 (Court Services Unit), SOP 1-44 (False Alarm Reduction Unit- archived), SOP 1-80 (Prisoner Transport Unit), SOP 1-54 currently 8-4 (Records Division), SOP 2-72 currently 2-91 (Procedures for Serious Crimes Call-outs), SOP 2-111 (Records Division Unit), SOP 3-23 (Retirement Observance), SOP 3-29 currently 4-12 (Issuance and Usage of Area Command Equipment), SOP 1-57 (Identification Disposition Unit), SOP 2-84 (Body Cavity and Strip Searches), SOP 2-97 (Harm Reduction Act Methadone Distribution Centers), SOP 3-15 (Sworn Personnel Positions and Seniority), SOP 3-16 (Seniority), SOP 2-9 (Use of Computer Systems), SOP 2-20 Hostage Situations, Barricaded Individuals and Tactical Threat Assessments), SOP 2-45 (Pursuit by Motor Vehicles), SOP 2-81 (Off-Duty: Power of Arrest), SOP 3-14 (Supervision), SOP 3-30 (Line Inspection Process), SOP 3-40 (Civil Litigation Process), SOP 3-45 (Due Process Notification Personnel), SOP 3-51 (Department Orders), SOP 4-10 (Monthly Reports-archived), SOP 1-19 (Shield Unit), SOP 1-21 (Bicycle Patrol Officer), SOP 1-26 currently 5-4 (Special Victims Section), SOP 1-83 currently 5-9 & 5-10 (Real Time Crime Center), SOP 2-28 (Flood Control Channel Action Plan), SOP 2-30 (Emergency Command Post), SOP 2-39 (Field Services Bureau Response to Demonstration, Incidents and Events), SOP 2-85 (Certificate for Evaluation), SOP 2-99 (Naloxone Policy), SOP 3-11 (Command Staff Responsibilities), SOP 3-32 (Performance Evaluations), SOP 1-3 (Grooming Standards), SOP 1-42 (Bomb Squad- currently Explosive Ordinance Disposal Unit), SOP 1-88 (Sex Crimes Unit), SOP 1-95 (Metro Traffic Division), SOP 2-4 (Use of Respirators), SOP 2-79 (Law Enforcement Assisted Diversion LEAD Program), SOP 1-5 (Harassment/Sexual Harassment in Workplace), SOP 1-67 (Multi-Agency Task Force), SOP 1-82 currently 4-8 (Property Crimes Reporting Technician), SOP 1-85 currently 6-2 (Recruiting Unit), SOP 1-93 (Telephone Reporting Unit), SOP 2-87 (Graffiti Cases-archived), SOP 2-90 currently 6-2 (Background Investigations).
- The CPOAB Vice-Chair shared a power point presentation on the CPOA new board member onboarding process. (*See Appendix III-29*)

- The CPOAB Chair throughout this reporting period provided reminders to the members of the Board through a standing agenda item regarding the Board's training requirements as mandated by the Oversight Ordinance and the CASA. The Executive Director during the October 14<sup>th</sup> 2021 reported that the new member trainings are now available through the City of Albuquerque's PSU portal.
- On October 18<sup>th</sup> 2021 City Council meeting, OC 21-47 receipt of city legal evaluation of CPOAB members training completion was passed by the Council unanimously.
- On November 3<sup>rd</sup> 2021, OC 21-50 appointment of Diane McDermott as the Interim Executive Director of the CPOA was approved unanimously by the City Council.
- At the November 4<sup>th</sup> 2021 CPOA monthly Board meeting, City attorney Esteban Aguilar Jr. welcomed Jesse Crawford to the CPOA Board, recognized CPOA Lead Investigator Diane McDermott in her appointment as the Interim Executive Director and acknowledged Executive Director Harness for his years of service to the City of Albuquerque.
- City Attorney also informed the Board regarding additional supplemental training for the members of the Board and the Agency. The city attorney provides general council services and generalized training for all boards and commissions. Due to the independent nature of the Board, City Attorney's office typically does not provide training to the CPOAB. Since the Board remains accountable to and independent from the city, the city attorney's office offered the training to the board and it is up to the Board and the Agency whether they would like to take upon the training. The training will be specifically be tailored for this Board and the Agency. The CPOAB discussed the City Attorney's proposal and no progress has been made in terms of this training proposal.
- At November 4<sup>th</sup> 2021 monthly Board meeting, Chair of the CPOAB proposed a timeline for the appointment of the Executive Director and announced that the personnel sub-committee will seek input from Board members, CPOA staff, CPC members and the stakeholders on supplemental and interview question for the Executive Director appointment. Also, the job posting is on the City of Albuquerque's website and will be

advertised with NACOLE and New Mexico State Bar. The deadline to apply for the position is December 10<sup>th</sup> 2021.

- At November 4<sup>th</sup> 2021 monthly Board meeting, the Chair announced that the Local NAACP made a request of the Board to have a representative of the CPOAB sit on a virtual panel on November 6, 2021 at 2:30 pm. Chair noted that the CPOA Board IMR Liaison and CPOA Legal Counsel submitted comments to the monitoring team regarding the draft of IMR-14. Chair also announced the CPOA Board and monitoring team site visit meeting will take place on November 15, 2021 at 3:00 pm at the Plaza Del Sol building. Chair noted that in accordance with the CPOA Policies and Procedures, Board members are required to have Robert Rules of Order training annually and the Chair will start working on getting the training scheduled.
- At December 2<sup>nd</sup> 2021 policy and procedure review sub-committee meeting, the CPOA Analyst noted that APD will be incorporating the PnP sub-committee suggestion by adding a requirement in 2-52-5-B concerning the Use-of-Force Pre-Use of Force section. The addition states *“Consider whether an individual’s failure to comply with their command is due to a medical condition, mental impairment, physical limitation, developmental disability, language barrier, drug interaction, behavioral crisis, or other factors beyond the individual’s control. i. In such situations, Department personnel should consider whether specific techniques or resources would help resolve the situation without resorting to force.”*
- Chair of the CPOAB suspended the CPOA Policies and Procedure rules for the purposes of modifying the December 9<sup>th</sup> 2021 monthly Board meeting agenda and omitted the standing items reports from the City departments along with the sub-committee reports.
- At December 9<sup>th</sup> 2021 monthly Board meeting, PnP sub-committee member notified the Board that a letter was sent to the Chief Harold Medina dated June 7, 2021, the CPOAB requested data for the traffic stops conducted by APD. To date, these data have not been provided. The CPOAB authorized the PnP sub-committee to pursue following up on the request.

- The CPOAB at the December 9<sup>th</sup> 2021 monthly Board meeting voted to approve the Memorandum of Understanding that is negotiated between the City of Albuquerque, CPOA/CPOAB and the APOA on accessing SUOF and OIS cases for Board’s review. (*See Appendix III-30*)
- The CPOAB at December 9<sup>th</sup> 2021 board meeting voted to approve sending a letter to the court to list the concerns including CPOA Board morale, Timely access to SUOF case materials, CPOA/CPOAB staffing and CPOAB training in anticipation of December 16<sup>th</sup> 2021 public hearing. (*See Appendix III-31*)
- On December 1<sup>st</sup> 2021, APD went live with the new Record Management System Mark 43.

### Policy Recommendations provided to APD

The Oversight Ordinance states “*The Board shall review and analyze policy suggestions, analysis, studies, and trend data collected or developed by the Administrative Office, and shall by majority vote recommend policies relating to training, programs and procedures or other matters relating to APD. Any such policy recommendations shall be supported by specific, written findings of the Board in support of the proposed policies. The Board's policy recommendations shall be submitted to APD and to the City Council. The Board shall dedicate a majority (more than 50%) of its time to the functions described in this subsection*”. (§ 9-4-1-4-C-5-a). The PnP Sub-committee is tasked with reviewing APD policies and procedures and make recommendations to the full Board on suggested changes.

Establishing and implementing sound policies are important to guide officers in making good decisions in critical situations. The quality of a department’s policy impacts the quality of services delivered to the public. Effective police accountability requires the department to have clear and detailed policies regarding police encounters that involve life, liberty and well-being of people

they encounter<sup>3</sup>. Accountability encourages departments to build trust in the communities they serve. Policies need to be clear and consistent throughout a department's Standard Operating Procedures manual. Inadequate policies fail to tackle possibly illegal and unprofessional actions. CPOA/Board recognizes that a good policy recommendation has several features:

- It identifies a problem and proposes a solution,
- It is supported by data,
- It is transparent to the community,
- It is clear, understandable, trainable and acceptable to the Police Department, and
- It has a good chance of being adopted.

There was *one* policy recommendation letter SOP 3-41 (Complaints Involving Department Personnel) sent to APD by the CPOA/Board (*See Appendix III-32*). Extensive discussions also took place at the Policy and Procedures review Sub-Committee, APD Policy and Procedure Unit (formerly Office of Policy Analysis) and APD Policy and Procedures Review Board. Many concerns were raised with the Subject Matter Experts (policy owners), and several comments and suggestions were provided at these meetings to bring changes in the SOPs early in the process.

### CPOAB Training Status

Section § 9-4-1-5-F-5 of the Oversight Ordinance stipulates *“The Director shall track training progress for each Board member, verify completion of the initial and on-going training requirements for each Board member, and include this information for each Board member as part of the semi-annual reports required by this article”*. This section highlights all the required initial training/orientation, six months training as well as annual training regarding all Board members who served during this reporting period. Note that the data in this section was retrieved on 11-10-2021 suggesting the training status of Board members was identified as of the mentioned date.

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<sup>3</sup> *The New World of Police Accountability, Third Edition by Samuel E. Walker & Carol A. Archbold*

Per section § 9-4-1-5-F-1 of the Oversight Ordinance, members of the Board upon appointment shall complete an orientation and training program to include training by the CPOA staff or CPOA legal counsel on CPOA policies, and procedures and attendance of at least one Board meeting as an observer (except for reappointed members). The status of this requirement is identified in the table below:

<b>Board Member</b>	<b>Initial Appointment Date</b>	<b>Be trained by the CPOA staff or CPOA legal counsel on CPOA policies, and procedures</b>	<b>Attend at least one Board meeting as an observer (except for reappointed members)</b>
Tara Armijo-Prewitt	6-14-2019	Completed	Completed
Patricia French	6-4-2021	Completed	Completed
Chantal Galloway	11-20-2017	Completed	Completed
William Kass	6-6-2017	Completed	Completed
Eric Nixon	3-12-2020	Completed	Completed
Eric Olivas	6-14-2019	Completed	Completed
Gionne Ralph	4-19-2021	Completed	Completed
Jesse Crawford	10-4-2021	Completed	Completed

*Table 9. Initial training/orientation status (prior to participating in first board meeting)  
As of 11-10-2021*

Section § 9-4-1-5-F-2 of the Oversight Ordinance lists the required training that Board members shall complete within the first 6 months on serving on the Board. Table 10 below lists the status of each Board member on those trainings during the last six months of 2021.

	<b>Tara Armijo-Prewitt (Deadline 1-14-2020)</b>	<b>Patricia French (Deadline 1-4-2022)</b>	<b>Chantal Galloway (Deadline 5-20-2018)</b>	<b>Jesse Crawford (Deadline 04-04-2022)</b>	<b>William Kass (Deadline 1-6-2018)</b>	<b>Eric Nixon (Deadline 9-12-2020)</b>	<b>Eric Olivas (Deadline 1-14-2020)</b>	<b>Gionne Ralph (Deadline 10-19-2021)</b>
<b>CASA Training</b>	Completed	Completed	Completed	No (within deadline)	Completed	Completed	Completed	No
<b>Oversight Ordinance Training</b>	Completed	Completed	Completed	No (within deadline)	Completed	Completed	Completed	No

<b>Public Meetings /Conduct of Public Official Training</b>	Completed	Completed	Completed	No (within deadline)	Completed	Completed	Completed	No
<b>Civil Rights Training</b>	Completed	Completed	Completed	No (within deadline)	Completed	Completed	Completed	No
<b>Use of Force Training</b>	Completed	Completed	Completed	No (within deadline)	Completed	Completed	Completed	No
<b>Civilian Police Academy Training</b>	Not fully completed due to external factors	Ongoing (within deadline)	Completed	No (within deadline)	Completed	Completed as member of NW CPC (2018)	Completed as member of NE CPC (2016)	Attended while an APD Chaplain (over 10 years ago)
<b>Two APD Ride-Along</b>	Completed	No (within deadline)	Completed	No (within deadline)	Completed	No (due to external factors)	Completed	No
<b>Annual Firearms Simulation Training</b>	No (due to external factors)	No (within deadline)	No (due to external factors)	No (within deadline)	No (due to external factors)	No (due to external factors)	Completed as part of CPA (2016)	No
<b>Internal Affairs Training</b>	No (not provided by APD)	No (within deadline)	Completed	No (within deadline)	Completed	No (not provided by APD)	No (not provided by APD)	No
<b>Equity and Cultural Sensitivity Training</b>	Completed	No (within deadline)	Completed	No (within deadline)	Completed	No (due to external factors)	Completed	No
<b>Officers Training Curriculum Briefing</b>	No (due to external factors)	No (within deadline)	No (due to external factors)	No (within deadline)	No (due to external factors)	No (due to external factors)	No (due to external factors)	No (due to external factors)

*Table 10. Required Training status (within 6 months of appointment)*

*External factors: training not offered, COVID-19 or other outside factors leading to non-completion*

*Within Deadline: Still within time frame to complete the required training*

*As of 11-10-2021*

Section § 9-4-1-5-F-3 stipulates “Board members shall receive eight hours of annual training on any changes in law, policy, or training in the areas outlined under subsection (2) above, 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 participate in at least two police ride-along for every six-months of service on the Board.” Table 11 below lists the status of each Board member on the annual/required on-going trainings during the last six months of 2021.

	<b>Tara Armijo-Prewitt</b>	<b>Patricia French</b>	<b>Chantal Galloway</b>	<b>Jesse Crawford</b>	<b>William Kass</b>	<b>Eric Nixon</b>	<b>Eric Olivas</b>	<b>Gionne Ralph</b>
<b>Annual Training on changes in laws, policies, training as well as developments in implementation of 2014 DOJ settlement agreement (NACOLE attendance)</b>	Completed (Post-completion essay was not submitted)	N/a	Completed	N/a	Completed	Completed (Post-completion essay was not submitted)	Completed	N/a
<b>Two Ride-Along</b>	No (Waived due to COVID)	No (N/a until initial 6-month training. Waived due to COVID)	No (Waived due to COVID)	No (N/a until initial 6-month training. Waived due to COVID)	No (Waived due to COVID)	No (Waived due to COVID)	No (Waived due to COVID)	No (N/a until initial 6-month training. Waived due to COVID)

*Table 11. Required Annual/On-going Training status  
As of 11-10-2021*

## Legislative Amendments to Oversight Ordinance and/or Policies and Procedures

Section § 9-4-1-10-F of the Oversight Ordinance states *“The CPOA shall be responsible for regularly informing Mayor, the City Council, and the Public by submitting semi-annual report that include; Identification of any matters that may necessitate the City’s Council consideration of legislative amendments to this Police Oversight Ordinance”*. During this reporting period, there were no legislative amendments that were proposed by the CPOAB to the City Council regarding the Oversight Ordinance. However, several changes to the Policies and Procedures governing the CPOA/Board were approved by the Board during this reporting period which includes:

- Changes made in the CPOA Policies and Procedures in regards to Board’s ‘Voting’.

ARTICLE IV -- PROCEDURES Section 8.c to strike ‘a medical or emergency situation exists’ and insert:

*The Board member may request to vote by telephone or other similar device when requested. Such voting can only take place upon the approval of the Chairperson and provided that the Board member can be heard on a speaker to enable the Board and the public to determine when the Board member is speaking and casting a vote.*

- Changes made in the CPOA Policies and Procedures:

ARTICLE V --INVESTIGATION AND REVIEW OF CIVILIAN COMPLAINTS, SERIOUS USES OF FORCE, AND OFFICER INVOLVED SHOOTINGS Section 6. C.

(1). a:

*(a) Agency findings letters, complaints, primary officer’s OBRD video, and the Investigator’s report will be made available for Board review.*

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## Appendix

### **I. Civilian Police Oversight Agency (CPOA) Staff**

**Edward W. Harness, Esq.**

Executive Director

**Diane L. McDermott**

Assistant Lead Investigator

**Antonio Coca**

Investigator

**Tressler J. Stephenson**

Investigator

**Misael Palalay**

Investigator

**Katrina Sigala**

Senior Administrative Assistant

**Ali Abbasi**

Data Analyst

**Valerie Barela**

Administrative Assistant

**Kelly Mensah**

Community Policing Councils Liaison

**Marteessa Billy**

CPC Administrative Assistant

## **A. CPOA Executive Director**

**EDWARD W. HARNESS, ESQ.** was selected as the top candidate by the CPOAB for the Executive Director position and confirmed by the City Council as Executive Director of the CPOA in September of 2015. Edward Harness is a graduate of Marquette University Law School. He completed his undergraduate degree in Management of Criminal Justice Operation at Concordia University, where he graduated Cum Laude. As a private practice attorney, focused on consumer rights and advocacy, Mr. Harness was recognized as one of Milwaukee’s Top-Rated Attorneys 2012 – 2015. He also served as a Police Commissioner 2007 – 2015. Prior to attending law school Mr. Harness was a City of Milwaukee Police Officer and served in the U.S. Army as a Military Policeman.

## **B. Duties and Responsibilities of the Executive Director**

Under the amended Oversight Ordinance, the Executive Director reports directly to the Civilian Police Oversight Agency Board (CPOAB). The CPOA Executive Director’s duties are as follows:

- Independently investigate, or cause to be investigated, all civilian police complaints and prepare findings and recommendations for review by the CPOAB;
- Review and monitor all Internal Affairs investigations including but not limited to officer involved shooting investigations. The Director shall prepare and submit findings and recommendations to the CPOAB relating to officer involved shootings, and shall report on general trends and issues identified through monitoring or auditing of Internal Affairs;
- Provide staffing to the CPOAB and ensure that the duties and responsibilities of the CPOA are executed in an efficient manner, and manage the day-to-day operations of the CPOA.
- The CPOA will receive and process all civilian complaints directed against the Albuquerque Police Department and any of its employees.
- The Director shall independently investigate and make findings and recommendations for review by the CPOAB for such civilian complaints, or assign them for independent investigation by CPOA staff or an outside independent investigator. If assigned to staff or

an outside investigator, the Director shall oversee, monitor, and review all such investigations and findings for each.

- All findings relating to civilian complaints, officer involved shootings and serious uses of force shall be forwarded to the CPOAB for its review and approval. For all investigations, the Director shall make recommendations and give advice regarding Police Department policies and procedures to the CPOAB, as the Director deems advisable.
- Investigation of all civilian complaints filed with the CPOA shall begin immediately after complaints are filed and proceed as expeditiously as possible, and if an investigation exceeds a timeframe of nine months the Director must report the reasons to the Board.
- All civilian complaints filed with other offices within the city authorized to accept civilian complaints, including the Police Department, shall be immediately referred to the Director for investigation.
- Mediation should be the first option for resolution of civilian police complaints. Mediators should be independent of the CPOA, APD, and the city, and should not be former officers or employees of APD. At the discretion of the Director an impartial system of mediation should be considered appropriate for certain complaints. If all parties involved reach an agreement, the mediation is considered successful and no investigation will occur.
- The Director shall monitor all claims of officer involved shootings and serious uses of force. No APD related settlements in excess of \$25,000 shall be made for claims without the knowledge of the Director. The Director shall be an ex-officio member of the Claims Review Board.
- The Director shall maintain and compile all information necessary to satisfy the CPOA's semi-annual written reporting requirements in § 9-4-1-10.
- The Director shall have access to any Police Department information or documents that are relevant to a civilian's complaint, or to an issue which is ongoing at the CPOA.
- The Director shall play an active public role in the community, and whenever possible, provide appropriate outreach to the community, publicize the civilian complaint process, and identify locations within the community that are suitable for civilians to file complaints in a non-police environment.
- The Director shall be provided the necessary professional and/or clerical employees for the effective staffing of the Administrative Office, and shall prescribe the duties of these staff

members. Such professional and clerical employees will be classified city employees. All CPOA staff with investigative duties shall be professional investigators trained in professional investigation techniques and practices.

- The Director shall report directly to the Board and lead the Administrative Office; independently investigate or supervise all investigations of civilian complaints, audit all IA investigations of complaints, recommend and participate in mediation of certain complaints, and supervise all CPOA staff.
- The Director shall complete the initial and ongoing training requirements for Board members as prescribed by § 9-4-1-5(F) and report completion of training activities to the Chair of the Board.

## II. Civilian Police Oversight Agency Board (CPOAB)

### A. Volunteer Board Members

Dr. William J. Kass - Dr. William J. Kass is currently a retired physical scientist. As a private citizen, he has been active in following Albuquerque Police Department reform efforts for nearly five years. He has met with victim's family members; attended meetings with the Department of Justice, the Independent Monitor Team, the City of Albuquerque Council, the Mayor's Initiative, the Police Oversight Task Force and former and current versions of the Police Oversight Board. He has also attended several area Community Policing Councils. His interests are primarily in policy and community outreach. He serves as the chair of Policy and Procedure Review Committee and is a member of the Community Outreach Sub-Committee. He believes that police policy is public policy and the community should have a voice in creating that policy. That can only be done if the community is informed and engaged and Albuquerque Police Department responds positively to their concerns.

Email: [wkass.pob@cabq.gov](mailto:wkass.pob@cabq.gov)

Term: Appointed 06-04-2020, Expires 02-02-2023

Chantal M. Galloway - Ms. Chantal M. Galloway is currently a Vice-President of Business Services. Ms. Galloway holds a BBA from the University of Arkansas at Little Rock, as well as an MBA from the University of New Mexico. Ms. Galloway's interest in serving the CPOAB comes from her desire to be active and serve her community. Ms. Galloway has a background with for-profit and non-profit organizations and hopes to bring her skills of obtaining outcomes wherein vested parties have their concerns or opinions heard and acted upon.

Email: [cgalloway.pob@cabq.gov](mailto:cgalloway.pob@cabq.gov)

Term: Appointed 02-04-2019, Expires 02-02-2022

Eric Olivas - Mr. Eric Olivas currently owns and manages his own landscaping business and a real estate investment business. Mr. Olivas' education includes a B.S. in Biology and Chemistry and a M.S. in Biology from the University of New Mexico. Mr. Olivas was the Chairman of the Northeast Community Policing Council prior to joining the CPOAB. His other community work

includes serving on the Quigley Park Neighborhood Association Board. Mr. Olivas is an avid runner, hiker, backpacker and enjoys spending time with his family and dog. Mr. Olivas' interest in serving on the Board comes from his experience with the NE CPC and his belief that the City needs an adaptive and responsive police force focused on constitutional community policing, that includes strong Civilian Police Oversight. Civilian Police Oversight must be efficient, transparent, and place an emphasis on policy analysis and policy improvement to affect systemic training deficits and cultural problems within the police department.

Email: [eolivas.pob@cabq.gov](mailto:eolivas.pob@cabq.gov)

Term: Appointed 06-14-2019, Expires 02-02-2024

Tara Armijo-Prewitt - Ms. Tara Armijo-Prewitt grew up in Albuquerque, graduated from Albuquerque High School, and graduated with honors with a B.S. in Biology from the University of New Mexico before attending graduate school at the University of California Davis, where she earned an M.S. in Entomology. Ms. Armijo-Prewitt is currently working for Catholic Charities of NM in the Center for Educational Opportunities. Ms. Armijo-Prewitt's interest in serving on the CPOA Board comes from her desire to be an engaged citizen and to contribute to the improvement of her community.

Email: [tarmijo-prewitt.pob@cabq.gov](mailto:tarmijo-prewitt.pob@cabq.gov)

Term: Appointed 06-14-2019, Expires 02-02-2022

Douglas Mitchell - Mr. Douglas Mitchell is retired after a long career working in the Juvenile Justice System in Albuquerque and New Mexico. Mr. Mitchell's interest in serving comes from being a lifelong resident of Albuquerque and wants to contribute to assure that the City thrives. He understands the Police Department has to reflect the values the community represents and wants to move that forward. He believes his years of experience working within the judicial, legislative, and executive branches of government would be an asset to the CPOA Board. Mr. Mitchell has Bachelors of Arts, Social Science and Master of Arts, Public Administration from UNM.

Eric Nixon - Mr. Eric Nixon is currently a Project Manager for the Department of Homeland Security. Mr. Nixon's interest in serving comes from having immersed himself in learning about social justice and equity issues that occur in the community. Mr. Nixon has served as a member of

the NW Area Command CPC. This experience has given him a background for voting on and advocating the CPC's recommendations regarding policing activities and policy changes at APD. Mr. Nixon is dedicated to performing the tasks of the Board as a resolute Board Member and impartial voice intent on finding the best solutions for ensuring APD integrity and accountability.

Email: [enixon.pob@cabq.gov](mailto:enixon.pob@cabq.gov)

Term: Appointed 03-12-2020, Expires 02-02-2024

Gionne N. Ralph - Ms. Ralph is an active community member with a broad range of service to our City. This range has included serving as a Volunteer Police Chaplin with the Albuquerque Police Department, working with the New Mexico Martin Luther King Jr. Commission as an Events Coordinator and also serving as a Foster Parent to a young person who was being treated at Desert Hills Behavioral Health Facility which provides treatment for children and adolescents who have been struggling with substance abuse. Ms. Ralph feels that she can be fair and unbiased on the Board if appointed since after serving as a Chaplain for over 10 years has afforded her the unique opportunity to see both sides of law enforcement and the citizens that are at that moment both facing unwanted situations.

Email: [rgionne.pob@cabq.gov](mailto:rgionne.pob@cabq.gov)

Term: Appointed 04-19-2021, Expires 02-02-2023

Patricia J. French - Ms. French is a retired City of Albuquerque Employee who spent over 30 years with the Albuquerque Police Department. During her tenure at the Police Department, she served as Records Supervisor and in her final two years with the City as the False Alarm Reduction Supervisor. Ms. French also served on the Public Employees Retirement Association of New Mexico Board (PERA) for many years. She served four years as Chair of the Board. In addition to her service on the PERA Board, Ms. French has been involved in a wide range of community service activities which has included serving on the Rio Grande Credit Union Supervisory Committee, the Brookline College Criminal Justice Program Advisory Committee, First Vice President of the Retired Public Employees of New Mexico and President of American Federation of State, County & Municipal Employees (AFCME) Local 3022. Known for her commitment to representing the working class, labor, teachers, veterans, the individuals who have paid their debt to society but are still not allowed to vote, Ms. French has served her community well. Ms. French

is a leadership expert who has the experience of high-energy to take on challenges presented to her. Ms. French brings unique perspectives gained from her understanding of how policies are created at APD. She was trained to perform internal investigations and has done many through her years with APD. She believes that her knowledge and expertise in reviewing investigations and knowledge of what questions to ask and what to look for are invaluable to the committee.

Email: [pafrench.pob@cabq.gov](mailto:pafrench.pob@cabq.gov)

Term: Appointed 06-07-2021, Expires 02-02-2022

Richard Johnson - Mr. Johnson is currently employed as the Pastor and Co-Founder of The Living Water Miracle Center. As an active community leader, Mr. Johnson has worked through his ministry helping to feed the food insecure residents of Albuquerque. Mr. Johnson has also helped people with their drug addictions by providing counseling and help with other issues in the hope of breaking the cycle of addiction. Mr. Johnson spends time during the day of his working hours in contact with people who are at higher risk of experiencing interactions with law enforcement. Mr. Johnson's interest in serving on the CPOA Board comes from the fact that he feels that he can bring a different perspective to the Board because of his close ties to the community and help bridge the gap between the community and law enforcement.

Term: Appointed 05-03-2021, Expires 02-02-2024

Jesse Crawford - Originally from Portland, Oregon, Mr. Crawford moved to New Mexico to attend New Mexico Tech. For the last six years, he has lived in Albuquerque and worked in the technology industry with a background including an MS in Information Security. He is interested in law enforcement and public safety and how they interact with social justice and believes strongly in the value of civilian oversight of law enforcement. Mr. Crawford believes that the Board can contribute positive change in the community by providing transparent, equitable oversight of APD and demonstrating a process of accountability. Mr. Crawford has an extensive history of involvement in community organizing and volunteerism. He has volunteered with organizations working with the underhoused, poverty eradication groups, and LGBTQIA advocacy organizations.

Email: [jcrawford.pob@cabq.gov](mailto:jcrawford.pob@cabq.gov)

Term: Appointed 10-04-2021, Expires 02-02-2023

## **B. Civilian Police Oversight Agency Board Duties**

The Civilian Police Oversight Agency Board (CPOAB) is tasked with the following functions:

- Promote a spirit of accountability and communication between the citizens and APD while improving community relations and enhancing public confidence;
- Oversee the full investigation of civilian complaints; audit and monitor all investigations and/or officer involved shootings under investigation by APD's Internal Affairs;
- Continue cooperation with APD and solicit public input by holding regularly scheduled public meetings;
- Review all work of the CPOA with respect to quality, thoroughness, and impartiality of investigations;
- Submit all findings to the Chief of Police;
- Review and analyze policy suggestions, analysis, studies, and trend data collected or developed by the Administrative Office, and shall by majority vote recommend policies relating to training, programs and procedures or other matters relating to APD. The CPOAB's policy recommendations shall be submitted to APD and to the City Council. The CPOAB shall dedicate a majority (more than 50%) of its time to the functions described in this subsection.

## **C. Civilian Police Oversight Agency Board Sub-Committees (November 4<sup>th</sup> 2021)**

**Case Review Sub-Committee:** Reviews Civilian Complaints alongside the CPOA Executive Director.

**Members:**

Eric Nixon

Patricia French

Dr. William Kass

Richard Johnson

**Policy and Procedures Review Sub-Committee:** Reviews Albuquerque Police Department policies and procedures, and makes recommendations on changes to ensure that compliance and consistency aligns with the Civilian Police Oversight Agency’s mission.

**Members:**

Dr. William J. Kass (chair)

Patricia French

Tara Armijo-Prewitt

Jesse Crawford

**Community Outreach Sub-Committee:** Members of the Civilian Police Oversight Agency Board discuss community outreach and engagement efforts.

**Members:**

Chantal Galloway (chair)

Eric Nixon

Jesse Crawford

Gionne Ralph

**Personnel Sub-Committee:** Discuss business regarding Civilian Police Oversight Agency administrative human resource decisions.

**Members:**

Eric Olivas (chair)

Richard Johnson

Tara Armijo-Prewitt

Gionne Ralph

### III. Attachments

1. Chief's Non-Concurrence Letter CPC # 109-21



Timothy M. Keller  
Mayor

**City of Albuquerque**  
Albuquerque Police Department



Eric J. Garcia  
Interim Superintendent of Police Reform

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**Interoffice Memorandum** February 7, 2022

**To:** Diane McDermott, Interim Executive Director, CPOA

**From:** Eric J. Garcia, Interim Superintendent of Police Reform/DCAO

**Subject:** Non-Concurrence of Findings and/or Discipline re: CPC 109-21

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This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

**Summary of non-concurrence of finding(s):**

Policy	CPOA Finding	APD Finding
1-1-6(A)(3)	Sustained	Not Sustained

**Rationale for non-concurrence of the above listed finding against Detective K R :**

I concur with the recommendation provided by City of Albuquerque Legal as follows:

"Pursuant to §9-4-1-4(C)(3)(g) ROA 1994, I have reviewed the investigation and findings of the Civilian Police Oversight Agency (CPOA) regarding CPC 109-21, which pertained to allegations that Detective K R had violated SOP 1-1-4(D)(20) ("Personnel Code of Conduct"), which was in effect at all times relevant to the conduct at issue.

As noted in the investigation, the relevant portion of the SOP 1-1-4 is as follows: "D. On-Duty Conduct ... 20. Personnel will **truthfully answer all questions** specifically directed to them that are related to their employment and to all operations of the Department." (emphasis added) It follows that in order for sworn personnel to have violated this section, they must deliberately lie, conceal facts and/or circumstances, or submit information they know to be false.

In short, Detective R was alleged to have withheld information regarding promises he made to a cooperating witness in a criminal matter pending in federal court. Detective R had been tasked with assisting in a federal case. This involved working with an incarcerated witness who was expected to testify against the defendant.

It is clear that Detective R while acting in conjunction with federal authorities, was acting within the scope of his employment and that any information related to his efforts in that regard would fall

within the scope of the SOP at issue in this matter. He had an obligation to truthfully answer any and all questions directed to him that could be related to his involvement in the federal case.

The investigation, however, did not reveal any specific fact or circumstance that would show, by way of a preponderance of the evidence, that Detective R intended to lie, conceal, or advance false information in response to any inquiries about having made promises to a witness. The investigation revealed that Detective R did not receive any formal training from the federal agencies involved with regard to how to document interactions with witnesses.

A portion of Detective R testimony was apparently the main piece of evidence in the investigation which resulted in the determination that the allegation of misconduct was sustained. That testimony was quoted in the Court's order. However, that testimony does not contain any admission that Detective R intentionally lied, concealed relevant facts or circumstances or submitted false information. Instead, the testimony reflects that the detective, upon being questioned in court, admitted that he had previously made promises and failed to disclose them, not that he was aware of having made promises when he was asked to confirm the contrary some period of time afterward.

While the Court ultimately did not find this specific statement to be credible, the Court also held clearly that it could not assign a bad faith motive to the detective's failure to disclose the promises he made to the witness. The testimony from Detective R could equally be construed that he erred by failing to properly document all of his interactions with the witness rather than deliberately concealing or lying about the relevant interactions he had with the witness.

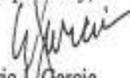
Detective R can certainly be criticized for failing to adequately and thoroughly document his conversations with the witness, but this alone does not give rise to a finding that he violated the relevant SOP. He clearly made normal promises to a witness, but failed to properly record these in a manner which might have resulted in compliance with the Court's later verbal and written discovery rulings.

Because the available facts and circumstances in the investigation cannot fairly point to one conclusion over another by a preponderance of the evidence, I must respectfully disagree with the CPOA investigation and conclude that the alleged misconduct be deemed "not sustained." As such, the Department will take no disciplinary action against Detective R regarding this allegation.

**Conclusion:**

As a result of the above mentioned points of non-concurrence, the CPOA's recommended adverse finding will be replaced with the non-adverse finding of "Not Sustained" as the official resolution to this case.

Respectfully,

  
Eric J. Garcia  
Interim Superintendent of Police Reform/DCAO  
Albuquerque Police Department, Police Reform Bureau

c: Harold J. Medina, Chief of Police

2. *Chief's Non-Concurrence Letter CPC # 093-21*

Albuquerque Police Department

Investigation: CPC 093-21

Supervisors Recommendation Form

September 13, 2021

Commander Renae McDermott

SOP Violation: 1-14D.14

Based on the evidence presented, and the fact the complainant did not cooperate with this investigation, I do not concur with the CPOA's finding of SUSTAINED nor the recommended preliminary discipline calculation. I recommend this violation be NOT SUSTAINED.

Per the Civilian Police Oversight Agency finds ...."The Executive Director recommends a Class 6 sanction be added to this SOP violation. The subject of this investigation allowed his personal animosity toward the complainant to affect his judgment. He chose to take enforcement actions against the complainant, issue a summons, while others committing similar offenses were not summoned. "

"The action appears retaliatory. There was not enough evidence to prove a violation occurred of the department's retaliation policy because the complainant did not cooperate with the investigation. "

Overall review of the CD provided of the incidents in question along with Sgt. Hunt's interview statement, Sgt. Hunt exercised great discretion and constraint by not engaging with complainant while on both scenes as complainant repeatedly harassed and distracted Sgt. Hunt. Sgt. Hunt continually advised and gave direction for complainant to move back and out of the scene whereupon he could continue to take video from a safer location. Each time Sgt. Hunt provided that direction, complainant disregarded Sgt. Hunt's direction and made unnecessary and unwarranted comments. Sgt. Hunt did not have to give this same direction to others at the scene therefore, no one else at the scene was given a summons because Sgt. Hunt did not have to engage with the others as he continually did with the complainant.

The action "appears"retaliatory is not fact nor where facts presented which support that a violation occurred.

Training:

No training issue was identified in this review.

\*\*\* This is an addendum to my initial review and recommendation conducted on September 13, 2021.

At the request from CPOA Executive Director Harness, I was requested to re- review my initial recommendation. I conducted my re-review on October 21, 2021 and after this review I stand by my initial recommendation.

3. Chief's Non-Concurrence Letter CPC # 038-21



Timothy M. Keller  
Mayor

City of Albuquerque  
Albuquerque Police Department



Eric J. Garcia  
Interim Superintendent of Police Reform

Interoffice Memorandum

January 10, 2022

**To:** Diane McDermott, Interim Executive Director, CPOA  
**From:** Eric J. Garcia, Interim Superintendent of Police Reform/DCAO  
**Subject:** Non-Concurrence of Findings and/or Discipline re: CPC 038-21

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
3-13-3(B)(3)(a)	Not Sustained	Unfounded
1-1-4(J)(4)	Not Sustained	Unfounded

Rationale for non-concurrence of finding for 3-13-3(B)(3)(a) against Ofc. J A :

I concur with the recommendation provided by Commander G W and concurred by Deputy Chief J B as follows:

I concur with CPOA Investigator Coca on all findings of this case except for his finding on SOP 3-13-3B-3a:

"Officers shall abide by the following principles: Take appropriate action and render assistance in any instance that comes to their attention, whether on duty or off duty"

Investigator Coca reached a finding of "not sustained" meaning his investigation was unable to determine by preponderance of the evidence whether the officer complied with the policy. The allegation centers on whether Officer J knowingly allowed Operator E to drive her vehicle while intoxicated. The complainant did not offer sufficient evidence to establish any indication that Ms. E had been drinking alcoholic beverages beyond her own claims that it "reeked" in the house and that the non-itemized bill incurred at the restaurant was simply too high to be food. The Rio Rancho Police Department, an objective third party, stated they could not smell or observe any signs of intoxication and did not feel it necessary to stop the vehicle. Moreover, Officer A offered explanation of the alcohol bottles being out due to a previous event. Officers are not automatically given credit on their statements however no evidence was presented in the case or in the officer's retention file to cause me to question the credibility of that statement.

It is true there is no way for the investigation to completely establish that Operator E was not under the influence but the burden is not on her to prove she had not been drinking to the point of intoxication nor on Officer A to stop her from driving when the objective third party did not see evidence she should not be driving. I believe the proper finding in this case is UNFOUNDED.

**Rationale for non-concurrence of finding for 1-1-4(J)(4) against Tele Comm Op. M**

G ;

I concur with the recommendation provided by Commander C W and concurred by Deputy Chief J B as follows:

I concur with CPOA Investigator Coca on all findings of this case except for his finding on SOP 1-1-4J-4:

"Personnel will not use intoxicating beverages while off duty if such use renders them unable to report for their next scheduled tour of duty or if the use would bring discredit to the department"

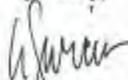
Investigator Coca reached a finding of "not sustained" meaning his investigation was unable to determine by preponderance of the evidence whether the officer complied with the policy. The allegation centers on whether Operator G drank intoxicating beverages prior to a scheduled shift. The complainant did not offer sufficient evidence to establish any indication that Ms. G had been drinking alcoholic beverages beyond her own claims that it "reeked" in the house and that the non-itemized bill incurred at the restaurant was simply too high to be food. The Rio Rancho Police Department, an objective third party, stated they could not smell or observe any signs of intoxication and did not feel it necessary to stop the vehicle.

It is true there is no way for the investigation to completely establish that Operator G was not under the influence but the burden is not on her to prove she had not been drinking to the point of intoxication. Moreover, the investigation found no evidence Ms. G was unable to report for her next shift nor that her performance was substandard in any way. I believe the proper finding in this case is UNFOUNDED.

**Conclusion:**

The above information constitutes the totality of non-concurrence on the part of APD. No other aspect of the CPC investigation is contended.

Respectfully,



Eric J. Garcia  
Interim Superintendent of Police Reform/DCAO  
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

4. Chief's Non-Concurrence Letter CPC # 249-20



Timothy M. Keller  
Mayor

City of Albuquerque  
Albuquerque Police Department



Eric J. Garcia  
Interim Superintendent of Police Reform

Interoffice Memorandum

January 11, 2022

**To:** Diane McDermott, Interim Executive Director, CPOA  
**From:** Eric J. Garcia, Interim Superintendent of Police Reform/DCAO  
**Subject:** Non-Concurrence of Findings and/or Discipline re: CPC 249-20

This memorandum serves to convey the articulation for APD's points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
1-1-4(D)(15)	Sustained	Administratively Closed

Rationale for non-concurrence of finding for 1-1-4(D)(15) against Officer C

I concur with the recommendation provided by former Deputy Chief E. C as follows:

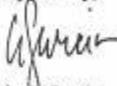
After reviewing the facts in this case, I do not concur with the findings of the CPOA. The subject was extremely disrespectful towards Officer I and Officer C. Mr. A continuously challenged any questioning by the officers in which a back and forth conversation continued throughout their interaction. Both officers displayed patience in which at no point did they raise or escalate the situation. I saw this more of a dialogue and while one would hope for it to be more productive, it was not. There were bits and pieces of comments that could have been left out by Officer I but nothing that rose to sustaining him for violating the policy. This is considered a minor policy violation and not significant of a pattern of misconduct.

Based on the facts of the case, this violation will be found **Administratively Closed**.

**Conclusion:**

Based on the aforementioned points of non-concurrence, The CPOA's recommended adverse finding will be replaced with the non-adverse finding of "Administratively Closed." As a result, no discipline will be imposed as it relates to this change.

Respectfully,



Eric J. Garcia  
Interim Superintendent of Police Reform/DCAO  
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police

5. Chief's Non-Concurrence Letter CPC # 250-20



Timothy M. Keller  
Mayor

City of Albuquerque  
Albuquerque Police Department



Harold J. Medina  
Chief of Police

June 4<sup>th</sup>, 2021

**Interoffice Memorandum**

**To:** CPOA Board  
**From:** Harold J. Medina, Chief of Police  
**Subject:** Non concurrence CPC – 250-20

I have reviewed the above listed case and concur in part and do not concur in part with the findings of the CPOA investigation. The sustained charges in this case are predicated on an alleged use of force. If this case was believed to contain a use of force, it should be sent to IAFD for a thorough evaluation and determination. The factors of minimal, necessary, reasonable and proportionate force can then be evaluated by investigators who are trained in and specialize in use of force. This would follow the same practice as criminal allegations made to the CPOA being referred for a criminal investigation to the appropriate unit.

In determining if a use of force occurred one must look at the policy in its entirety and not in part. The policy section below was cited by the CPOA investigation as the determining factor that this was a use of force;

*Level 1 Use of Force: Force that is likely to cause only transitory pain, disorientation, and/or discomfort during its application as a means of gaining compliance.*

1. *This includes techniques that are not reasonably expected to cause injury, do not result in an actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing).*

There are two more subsections to this policy which were omitted;

*b. Shows of force, including: pointing a firearm, beanbag shotgun, 40 millimeter impact launcher, OC spray, or ECW at an individual, or using an ECW to "paint" an individual with the laser sight or utilizing a warning arc. A show of force is reportable as a Level 1 use of force.*

*c. Level 1 use of force does not include interaction meant to guide, assist, or control an individual who is offering minimal resistance. (Emphasis added)*

Moreover one must examine what is not a use of force. In the policy cited below, that is defined;

*O. Low-Level Control Tactics*

1. *Physical interactions meant to guide and/or control an individual that do not constitute a reportable use of force. Low-level control tactics include, but are not limited to:*

a. *Escort techniques, touching, use of control holds, or handcuffing an individual with no or minimal resistance (e.g., tensing of arm muscles or turning or pulling away that does not escalate to a reportable use of force) which does not cause pain and is not reasonably likely to cause pain or injury; and*

b. *Using hands or equipment to stop, push back, separate, or escort a person in a manner that does not cause pain, and is not reasonably likely to cause any pain or injury.*

The video depicts the complainant having slipped one hand out of her handcuffs. The complainant states that they “fell off”. In any event the subject officers proceed to re handcuff the complainant. The complainant is moving around and screaming the entire time and at one point complains about the handcuffs hurting her. The handcuffs are being adjusted when the complainant attempts to turn toward the officer on her left side. The officer on her right side grabs her upper bicep and pulls her back facing forward. This occurs a second time and the officer tells the complainant to stop turning around. It is the grabbing of the complainants bicep that the investigation determined to be a use of force. The complainant never mentioned pain from the officer holding her in the video or in her complaint.

When the complainant is released back into the cell, it is apparent on video that the handcuffs move freely and are around the distal portion of the wrist. Moreover the handcuff on her left wrist is over her shirt cuff.

In examining if a use of force occurred I looked at policy, circumstance and intent. The policy states;

*Escort techniques, touching, use of control holds, or handcuffing an individual with no or minimal resistance (e.g., tensing of arm muscles or turning or pulling away that does not escalate to a reportable use of force) which does not cause pain and is not reasonably likely to cause pain or injury*

The complainant was clearly turning and pulling away. The question is whether the officers’ actions caused pain or reasonably likely to cause pain. Pulling on someone’s upper arm and holding it in the manner depicted is not reasonably likely to cause pain or injury. It is a quasi-escort hold which is also defined to not be a use of force. I then examined the intent associated with the action. The officers were trying to adjust the handcuffs and the complainant kept turning. The officer’s statement affirms that his apparent intent was to keep the complainant from turning so the handcuffs could be applied. I then looked at the resistance the complainant was offering. To determine this I looked at the policy stated above which says in part, “*handcuffing an individual with no or minimal resistance (e.g., tensing of arm muscles or turning or pulling away that does not escalate to a reportable use of force)*”. The actions of the complainant are clearly within this definition.

Since the handcuffs do not appear improperly applied on video, this coincides with the officer’s statement that they were properly applied.

While the complainants screaming is quite dramatic, the case in its entirety must be evaluated. For the reasons stated above, the preponderance of evidence indicates that this was not a use of force. The mechanisms employed meet the definition of low level control tactics.

6. Chief's Non-Concurrence Letter CPC # 067-21



Timothy M. Keller  
Mayor

City of Albuquerque  
Albuquerque Police Department



Harold J. Medina  
Chief of Police

October 8, 2021

**Interoffice Memorandum**

**To:** IAFD/IAPS  
**From:** Josh Brown, Interim Deputy Chief, Field Services Bureau  
**Subject:** CPC 67-21

After review of the attached documentation I concur with Commander Norris findings of Exonerated for 2-60-4A.5.b.e.f for all officers involved.

I do not concur with the CPOA finding of a sustained violation for 1-1-5A1 that was added by the board. The initial investigation never touched on the violation and the officers involved were never interviewed or questioned reference the violation. The original complainant Mr. Sweeny was also never contacted during the investigation as to the alleged violation of 1-1-5-A1. Without further investigation and re-interviewing the involved officers there is no way to sustain the violation for all officers involved.

This case is also beyond timelines as this case was entered in April, 2021. CPOA filed an extension on July 8, 2021 for a 30 day extension and the board provided their opinion on October 14, 2021.

Final finding: 2-60-4A.5.b.e.f- Exonerated.  
1-1-5A1- Not Sustained

cc. File

7. Chief's Non-Concurrence Letter CPC # 095-21



Timothy M. Keller  
Mayor

City of Albuquerque  
Albuquerque Police Department



Harold J. Medina  
Chief of Police

September 22, 2021

**Interoffice Memorandum**

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**To:** Civilian Police Oversight Agency  
**From:** *M* Harold J. Medina, Chief of Police  
**Subject:** Letter of Non-Concurrence on R L - CPC 095-21

I do not concur with the findings of the investigation on CSS Supervisor R L . She did fail to properly code the OBRD recording as restricted, once she was made aware of it. This is a sanction 6 violation, which would warrant a written reprimand. Taking into account progressive discipline, she does have a prior sustained sanction 5 for a similar offense, this would move up to a second-class 6, which would be an 8 to 32 hour suspension. The CPOA recommended a 32-hour suspension but gave no aggravating factor as to why the high end was recommended. I **DO NOT CONCUR** with the recommended discipline. I am imposing an 8-hour suspension for a second violation sanction 6.

8. APD SUOF Case # 18-0068735

CITY OF ALBUQUERQUE



**CIVILIAN POLICE OVERSIGHT AGENCY Board**

*Eric Olivas, Chair*                      *Chantal M. Galloway, Vice Chair*  
*Tara Armijo-Previtt*                  *Patricia French*                  *Richard Johnson*  
*Douglas Mitchell*                      *Eric Nixon*                          *Gianna Ralph*  
 Edward Harness, Executive Director

July 8, 2021

Harold Medina, Chief of Police  
 C/O Internal Affairs Unit  
 Albuquerque Police Department  
 400 Roma NW  
 Albuquerque, NM 87102

RE: APD Case # 18-0068735, LAFD Case # C2018-000057

Dear Chief Medina:

My review of this case included:

- PO Box 1293
  - Responding to the incident and being briefed on July 17, 2018
  - Computer Aided Dispatch Reports
  - APD Field Services Reports
- Albuquerque
  - Criminalistics Reports
    - o Crime scene photos
  - Internal Affairs Reports
    - o Officer Interviews
- NM 87103
  - Internal Affairs Force Division Reports
    - o Command Review
  - Multi Agency Task Force Reports
    - o Office of Medical Investigators Report
    - o Witness statements
- www.capq.gov
  - On Body Recording Device Videos
  - APD Policy 2-52 Use of Force
  - Attending the Force Review Board Briefing June 11, 2020

My review of the evidence shows on July 17, 2018 the victim (Mr. L) was suspect in a homicide that occurred earlier in the day at . Mr. L and the homicide victim knew each other because they had a relationship with the same woman. Mr. L's ex-wife.

*Albuquerque - Annual Review - 08/01/2021*

Detectives located Mr. L. at [redacted] detectives and members of the Investigative Support Unit established a perimeter and attempted to communicate with Mr. L. Other occupants of the home Mr. L.'s family exited the home and confirmed he was in the residence alone. The tactical call out was authorized and set-up.

From 5:30 pm until 1:00 am the next morning the tactical unit attempted communication, and used chemical munitions to gain compliance and have Mr. L. exit the residence and submit to arrest.

At approximately 1:30 am Mr. L. exited the residence through the garage armed with a pistol. He discharged that pistol towards officers. Tactical Officer #1 returned fire striking Mr. L.

**Finding:** The CPOA finds Tactical Officer 1's conduct "Exonerated," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

9. APD SUOF Case # 19-0056389

CITY OF ALBUQUERQUE



**CIVILIAN POLICE OVERSIGHT AGENCY Board**

*Eric Olivas, Chair*                      *Chantal M. Galloway, Vice Chair*  
*Tara Armijo-Previtt*                  *Patricia French*                  *Richard Johnson*  
*Douglas Mitchell*                      *Eric Nixon*                          *Gianne Ralph*  
Edward Harness, Executive Director

July 8, 2021

Harold Medina, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

**RE: APD Case # 19-0056389, IAFD Case # C2019-000052**

Dear Chief Medina:

My review of this case included:

PO Box 1295

Albuquerque

NM 87103

[www.abq.gov](http://www.abq.gov)

- Computer Aided Dispatch Reports
- APD Field Services Reports
- Internal Affairs Reports
  - Officer Interviews
- Internal Affairs Force Division Reports
  - Command Review
- On Body Recording Device Videos
- APD Policy 2-23 Use of Canine, APD Procedural Order 6-9 K9 Unit
- Attendance Force Review Board briefing April 9, 2020

My review of the evidence shows on June 20, 2019 the victim Ms. M. was suspected of Aggravated Assault of a Household Member and False Imprisonment. Officers arrived and spoke with, Ms. M. Officers attempted to gain her compliance and place her under arrest. She did not comply instead barricading himself in the residence. A tactical activation was authorized.

During the tactical activation Ms. M. advised CNT that she wanted officers to kill her. Tactical officers deployed chemical weapons, and noise flash diversion devices to gain Ms. M.'s compliance.

Albuquerque Civilian Oversight Agency (CAO) 2020

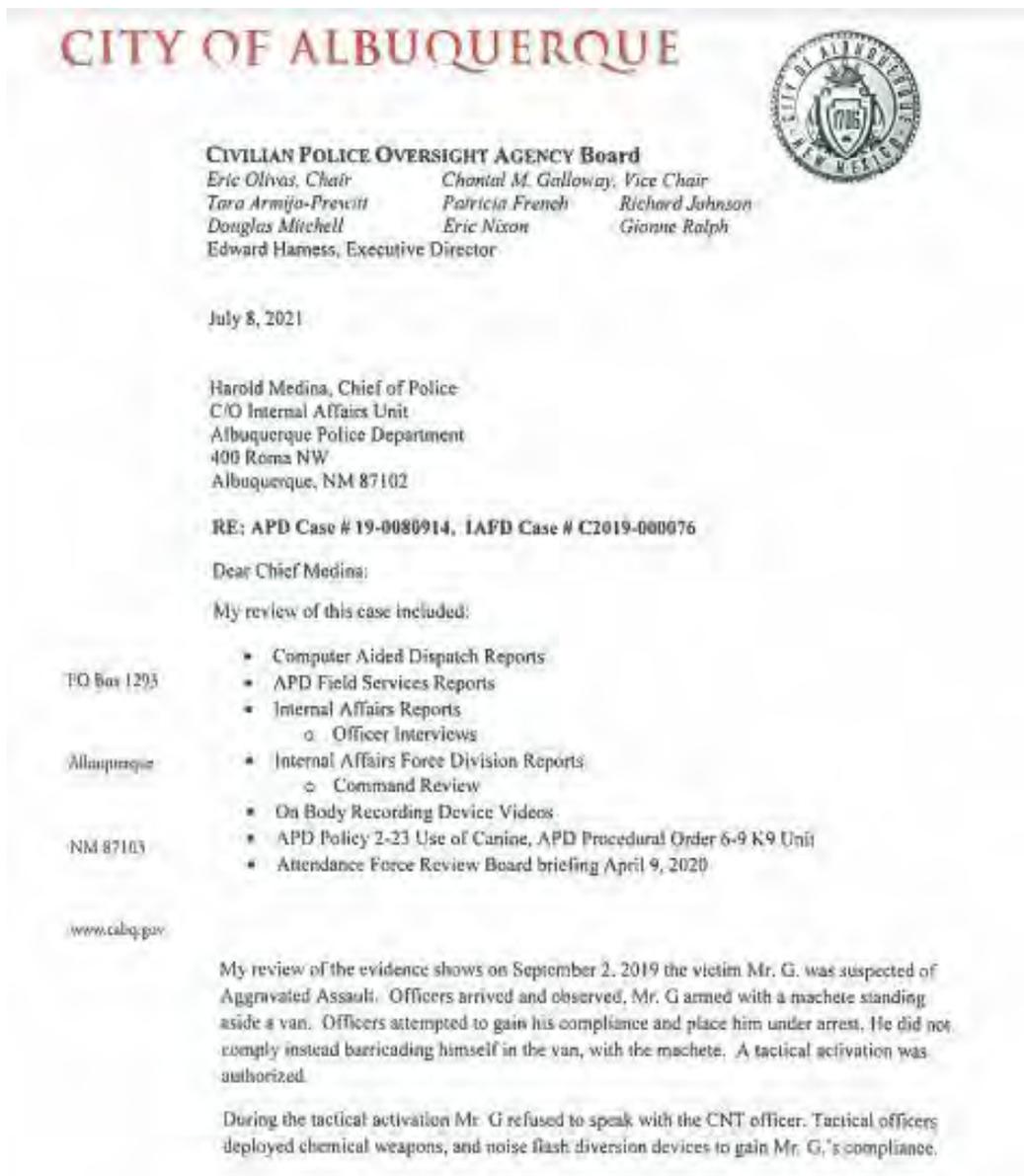
After hours attempting to gain the compliance of Ms. M. officers gained entry to the residence and utilized a K9 to make the arrest.

**Finding:** The CPOA finds Officer 1's conduct "Exonerated," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

10. APD SUOF Case # 19-0080914



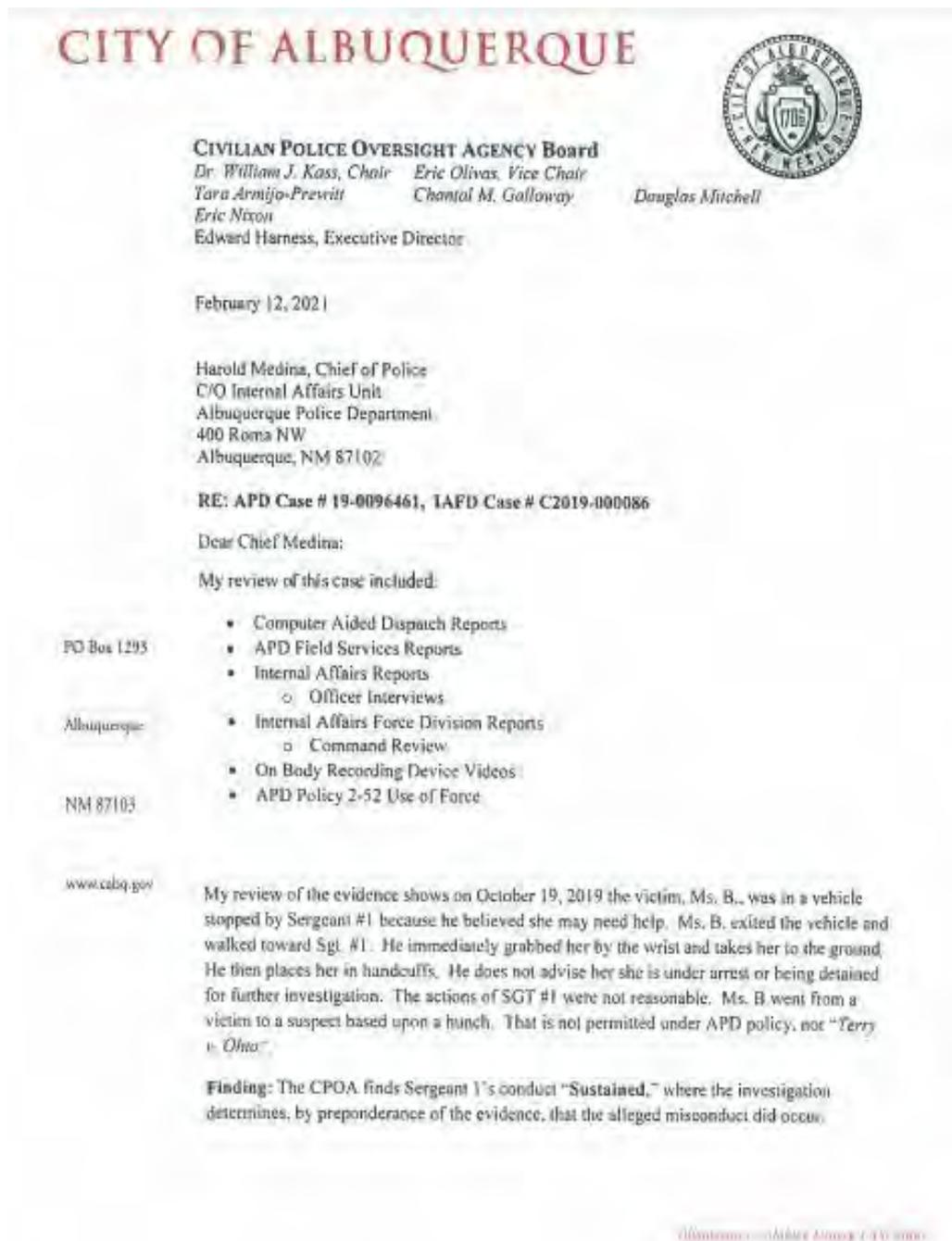
After hours attempting to gain the compliance of Mr. G's. compliance, officers used a K9 to arrest Mr. G through the open van door.

**Finding:** The CPOA finds Officer 1's conduct "Exonerated," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

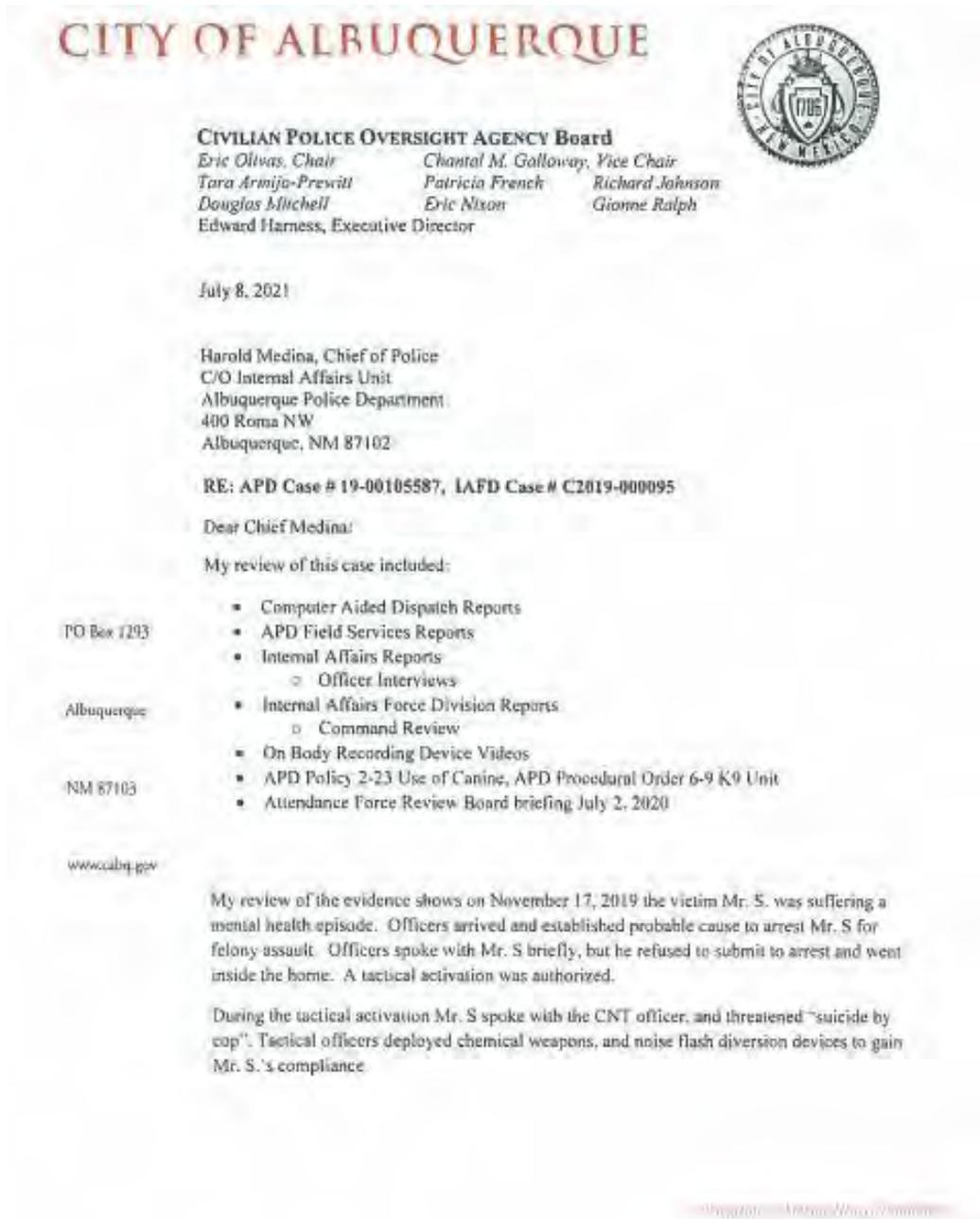
Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

11. APD SUOF Case # 19-0096461



12. APD SUOF Case # 19-00105587



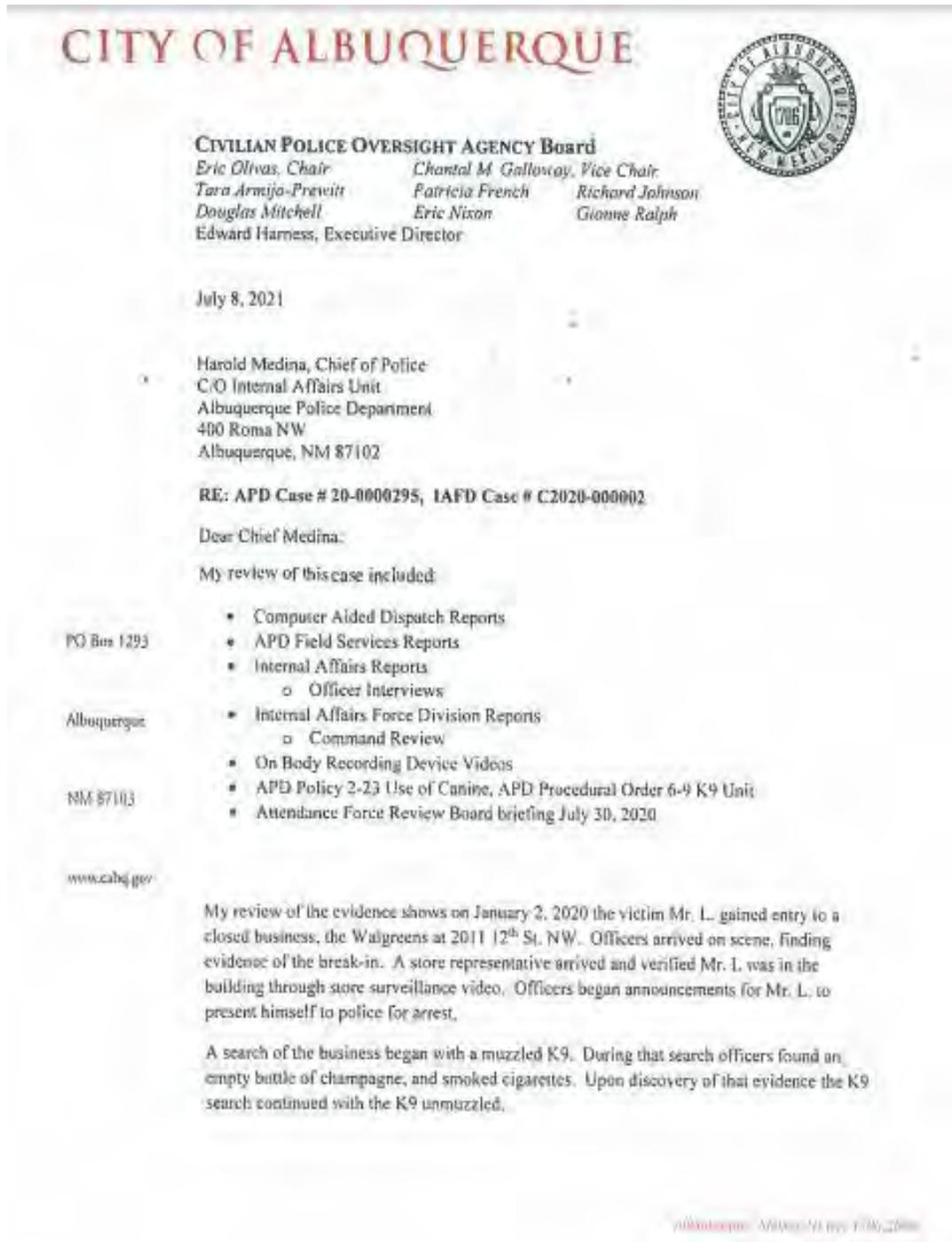
Mr. S. exited the home, but continued to ignore the commands of officer's as he began to walk away from police. Sgt 1 deployed his K9 to make the arrest of Mr. S.

**Finding:** The CPOA finds Sergeant 1's conduct "Exonerated," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

13. APD SUOF Case # 20-0000295



The K9 located Mr. L behind an unlocked door in the pharmacy area. The K9 contacted Mr. L. on the arm and officers took Mr. L into custody.

**Finding:** The CPOA finds Officer I's conduct "Exonerated," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

14. APD SUOF Case # 20-0024693

CITY OF ALBUQUERQUE



**CIVILIAN POLICE OVERSIGHT AGENCY Board**

*Eric Olivas, Chair*      *Chantal M. Galloway, Vice Chair*  
*Tara Armijo-Prewitt*      *Patricia French*      *Richard Johnson*  
*Douglas Mitchell*      *Eric Nixon*      *Gionna Ralph*  
Edward Harness, Executive Director

August 12, 2021

Harold Medina, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

RE: APD Case # 20-0024693, IAFD Case # C2020-00179

Dear Chief Medina:

My review of this case included:

PO Box 1293

Albuquerque

NM 87103

[www.cpbq.gov](http://www.cpbq.gov)

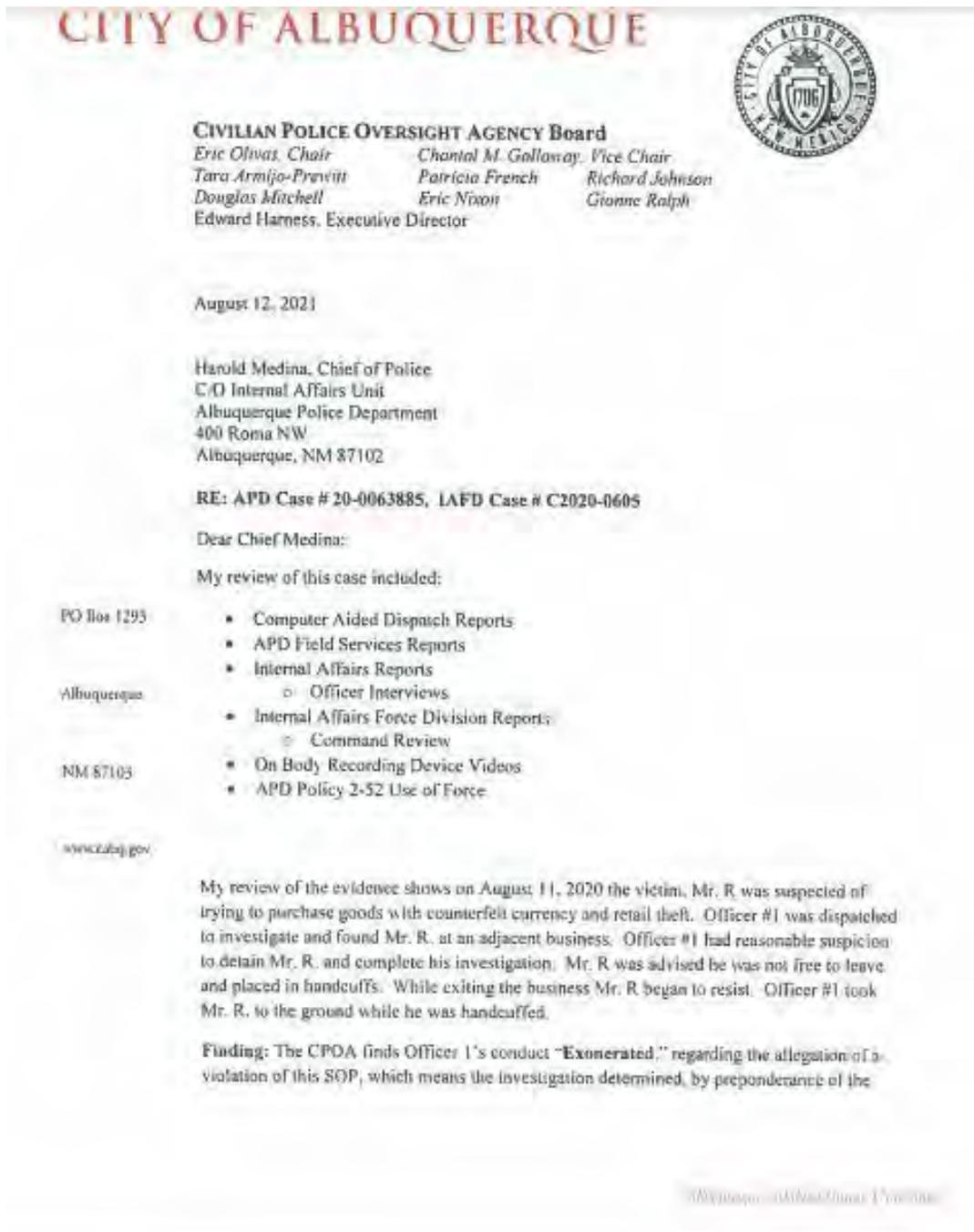
- Computer Aided Dispatch Reports
- APD Field Services Reports
- Internal Affairs Reports
  - Officer Interviews
- Internal Affairs Force Division Reports
  - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 Use of Force

My review of the evidence shows on March 18, 2020 the victim, Mr. B., was intoxicated and threatening to jump off of a balcony. Upon arrival officers observed Mr. B on a third-floor balcony. Officer #1 approached Mr. B and placed him in handcuffs. While walking down the stairs, Mr. B. resisted and Officer #1 used pain compliance on Mr. A. while handcuffed.

**Finding:** The CPOA finds Officer 1's conduct "Exonerated," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

*Charlene M. Anderson, Director*

15. APD SUOF Case # 20-0063885



evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

16. APD SUOF Case # 20-0003358

## CITY OF ALBUQUERQUE



### CIVILIAN POLICE OVERSIGHT AGENCY Board

*Eric Olivas, Chair*      *Chantal M. Galloway, Vice Chair*  
*Tara Arrijo-Previtt*      *Patricia French*      *Richard Johnson*  
*Douglas Mitchell*      *Eric Nixon*      *Glorne Ralph*  
Edward Harness, Executive Director

August 12, 2021

Harold Medina, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

RE: APD Case # 20-0003358, IAFD Case # C2020-00004

Dear Chief Medina:

My review of this case included:

PO Box 1293

Albuquerque,

NM 87105

www.cpoa.gov

- Computer Aided Dispatch Reports
- APD Field Services Reports
- Internal Affairs Reports
  - Officer Interviews
- Internal Affairs Force Division Reports:
  - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 Use of Force

My review of the evidence shows on August 11, 2020 the victim, Mr. R., was observed by Officer #1 entering a business in violation of a Criminal Trespass Order. In addition, store security advised Officer #1 Mr. R. had concealed store items in a duffel bag while in the store. Mr. R. was placed under arrest. While being escorted to the squad car, Mr. R. resisted and attempted to flee. Officer #1 along with security wrestled Mr. R. to the ground while handcuffed.

**Finding:** The CPOA finds Officer 1's conduct "Exonerated," regarding the allegation of a violation of this SOP; which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

Approved: [Signature] August 12, 2021

17. APD SUOF Case # 20-0060676/20-0060662

## CITY OF ALBUQUERQUE



### CIVILIAN POLICE OVERSIGHT AGENCY Board

*Eric Olivas, Chair*                      *Chantal M. Galloway, Vice Chair*  
*Tara Armijo-Prewitt*                  *Patricia French*                  *Richard Johnson*  
*Douglas Mitchell*                      *Eric Nixon*                          *Gionne Ralph*  
Edward Harness, Executive Director

September 9, 2021

Harold Medina, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

RE: APD Case # 20-0060676/20-0060662, IAFD Case # C2020-00571

Dear Chief Medina:

My review of this case included:

PO Box 1293

Albuquerque

NM 87103

[www.ci.albuq.nm.us](http://www.ci.albuq.nm.us)

- Computer Aided Dispatch Reports
- APD Field Services Reports
- Internal Affairs Reports
  - Officer Interviews
- Internal Affairs Force Division Reports
  - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 Use of Force

My review of the evidence shows on March 18, 2020 the victim, Mr. B., was intoxicated and threatening to jump off of a balcony. Upon arrival officers observed Mr. B on a third-floor balcony. Officer #1 approached Mr. B and placed him in handcuffs. While walking down the stairs, Mr. B. resisted and Officer #1 used pain compliance on Mr. A. while handcuffed.

**Finding:** The CPOA finds Officer 1's conduct "Exonerated," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

[Albuquerque@ci.albuq.nm.us](mailto:Albuquerque@ci.albuq.nm.us) / (505) 771-2200

18. APD SUOF Case # 20-0034126/20-0034103

## CITY OF ALBUQUERQUE



### CIVILIAN POLICE OVERSIGHT AGENCY Board

*Eric Olivas, Chair*      *Chantal M. Galloway, Vice Chair*  
*Tara Armijo-Frewitt*      *Patricia French*      *Richard Johnson*  
*Dr. William Koss*      *Douglas Mitchell*      *Eric Nixon*  
*Gianne Ralph*  
Edward Harness, Executive Director

September 9, 2021

Harold Medina, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

RE: APD Case # 20-0034126/20-0034103, IAFD Case # C2020-00298

Dear Chief Medina:

My review of this case included:

- Computer Aided Dispatch Reports
- APD Field Services Reports
- Internal Affairs Reports
  - Officer Interviews
- Internal Affairs Force Division Reports
  - Command Review
- On Body Recording Device Videos
- APD Policy 2-23 Use of Canine, APD Procedural Order 6-9 K9 Unit
- APD Policy 2-52 Use of Force

PO Box 1293

Albuquerque

NM 87103

[www.ciabq.gov](http://www.ciabq.gov)

My review of the evidence shows on April 26, 2020 the victim, Mr. L., was suspected of beating a man with a lug wrench. While not initially on the scene, he soon returned and barricaded himself in his residence. Officers began public address announcements, used Noise Flash Diversionary Devices, and Chemical Munitions as an attempt to get Mr. L. to exit the residence.

After a time, Mr. L. exited the residence with his hands in the air. Officer #1 deployed his 40mm rifle striking Mr. L. Sergeant #1 deployed his K9 at the same time. Mr. L. was taken into custody.

*Albuquerque - Medical Priority 1700-200*

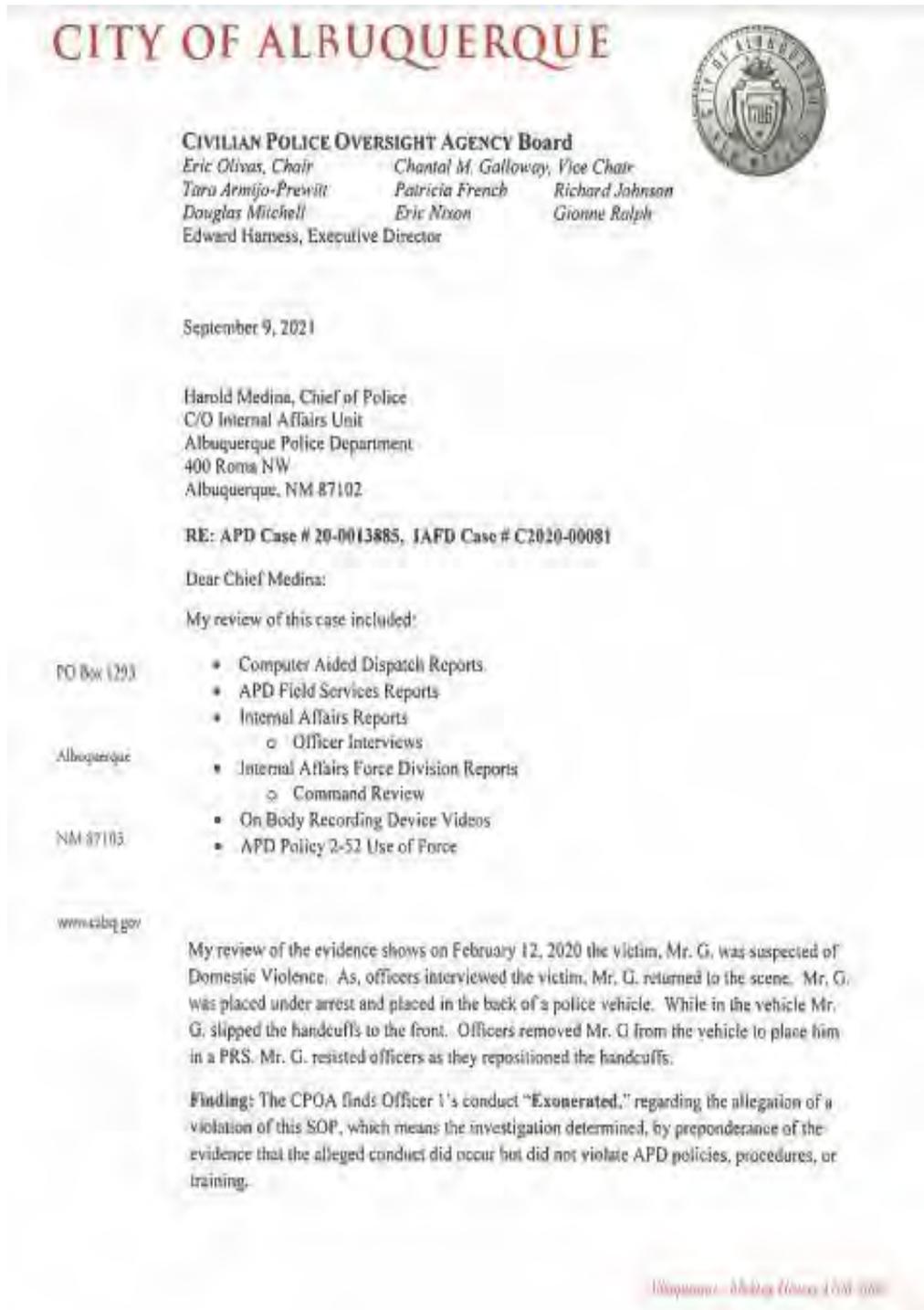
**Finding:** The CPOA finds Officer 1's conduct **SUSTAINED** where the investigation determines, by a preponderance of the evidence, the alleged misconduct did occur.

**Finding:** The CPOA finds Sergeant 1's conduct **SUSTAINED** where the investigation determines, by a preponderance of the evidence, the alleged misconduct did occur.

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

19. APD SUOF Case # 20-0013885



**Finding:** The CPOA finds Officer 2's conduct "Exonerated," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

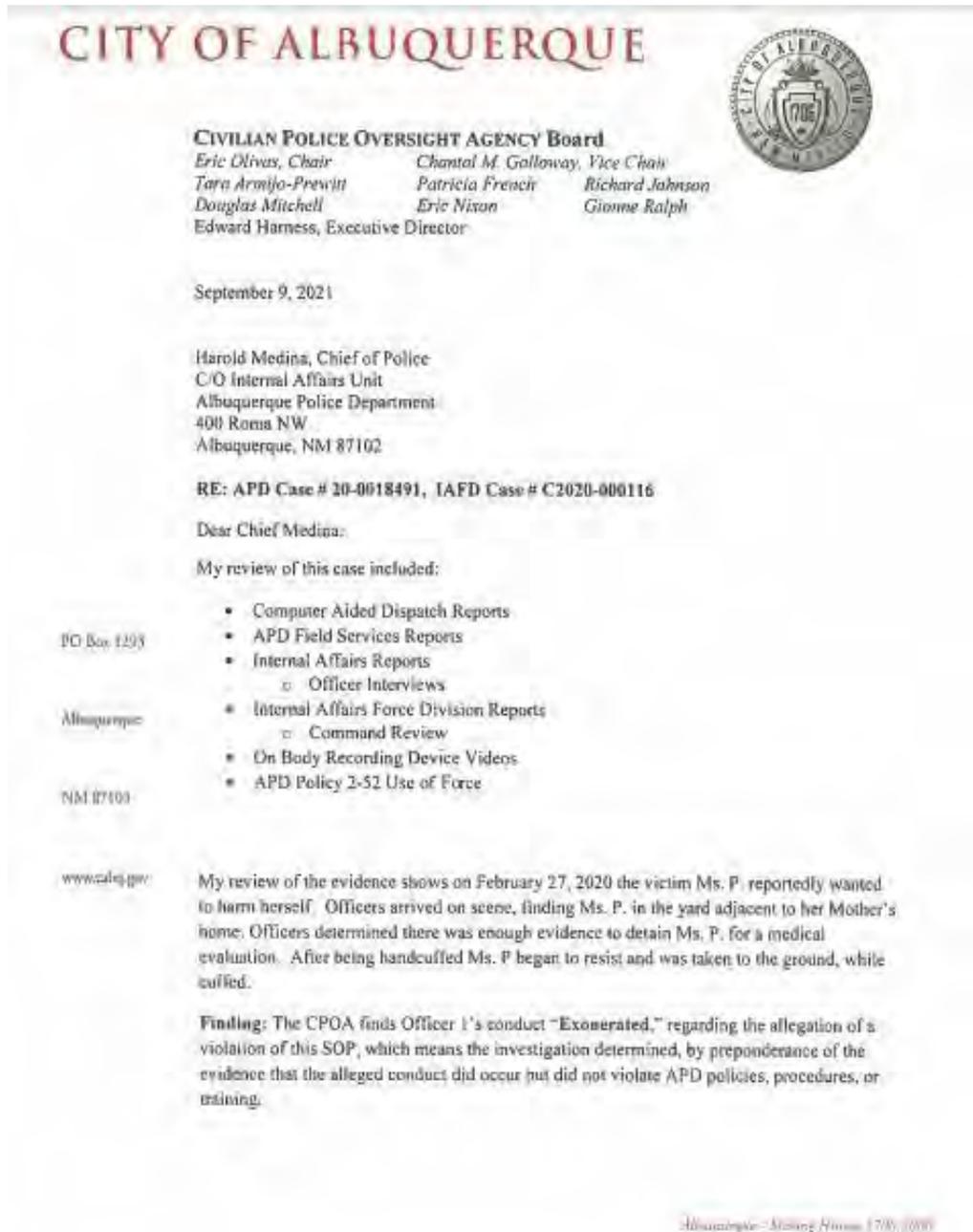
**Finding:** The CPOA finds Officer 3's conduct "Exonerated," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

**Finding:** The CPOA finds Acting Sergeant 1's conduct "Exonerated," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

20. APD SUOF Case # 20-0018491



**Finding:** The CPOA finds Officer 2's conduct "Exonerated," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

21. APD SUOF Case # 20-0004795

**CIVILIAN POLICE OVERSIGHT AGENCY BOARD**

*Eric Olivas, Chair    Chantal M. Galloway, Vice Chair*  
*Tara Armijo-Prewitt    Patricia French    Richard Johnson*  
*Douglas Mitchell    Eric Nixon    Glonne Ralph*  
Edward Harness, Executive Director

October 14, 2021

Harold Medina, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

**RE: APD Case # 20-0004795, IAFD Case # C2020-000013**

Dear Chief Medina:

My review of this case included:

- Computer Aided Dispatch Reports
- APD Field Services Reports
- Internal Affairs Reports
  - Officer Interviews
- Internal Affairs Force Division Reports
  - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 – 2-58 Use of Force

This case involved a level 3 use of force, resisted handcuffing causing injury. The Force review Board (FRB) found the force within policy. I concur with the FRB findings

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

22. APD SUOF Case # 21-0000606

**CIVILIAN POLICE OVERSIGHT AGENCY BOARD**

*Eric Olivas, Chair    Chantal M. Galloway, Vice Chair*  
*Tara Armijo-Prewitt    Patricia French    Richard Johnson*  
*Douglas Mitchell    Eric Nixon    Gionne Ralph*  
Edward Harness, Executive Director

October 14, 2021

Harold Medina, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

**RE: APD Case # 21-0000606, IAFD Case # C2021-000004**

Dear Chief Medina:

My review of this case included:

- Computer Aided Dispatch Reports
- APD Field Services Reports
- Internal Affairs Reports
  - Officer Interviews
- Internal Affairs Force Division Reports
  - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 – 2-58 Use of Force

This case involved a level 3 use of force, resisted handcuffing causing injury. The Force review Board (FRB) found the force within policy. I concur with the FRB findings.

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

23. APD SUOF Case # 20-0064745

**CIVILIAN POLICE OVERSIGHT AGENCY BOARD**

*Eric Olivas, Chair*    *Chantal M. Galloway, Vice Chair*  
*Tara Armijo-Prewitt*    *Patricia French*    *Richard Johnson*  
*Douglas Mitchell*    *Eric Nixon*    *Gionne Ralph*  
Edward Harness, Executive Director

October 14, 2021

Harold Medina, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

**RE: APD Case # 20-0064745, IAFD Case # C2020-000665**

Dear Chief Medina:

My review of this case included:

- Computer Aided Dispatch Reports
- APD Field Services Reports
- Internal Affairs Reports
  - Officer Interviews
- Internal Affairs Force Division Reports
  - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 – 2-58 Use of Force

This case involved a level 3 use of force, take down while handcuffed. The Force review Board (FRB) found the force within policy. I concur with the FRB findings

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

24. APD SUOF Case # 20-0014757/20-0014813

**CIVILIAN POLICE OVERSIGHT AGENCY BOARD**

*Eric Olivas, Chair    Chantal M. Galloway, Vice Chair*  
*Tara Armijo-Prewitt    Patricia French    Richard Johnson*  
*Douglas Mitchell    Eric Nixon    Gionne Ralph*  
Edward Harness, Executive Director

October 14, 2021

Harold Medina, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

**RE: APD Case # 20-0014757/20-0014813, IAFD Case # C2020-000094/2020-000095**

Dear Chief Medina:

My review of this case included:

- Computer Aided Dispatch Reports
- APD Field Services Reports
- Internal Affairs Reports
  - Officer Interviews
- Internal Affairs Force Division Reports
  - Command Review
- On Body Recording Device Videos
- APD Policy 2-23 Use of Canine, APD Procedural Order 6-9 K9 Unit
- APD Policy 2-52 – 2-58 Use of Force

This case involved a level 3 use of force, K9 deployment and K9 use of force. The Force review Board (FRB) found the force within policy. I concur with the FRB findings

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

25. APD SUOF Case # 20-0026269/20-00026264

**CIVILIAN POLICE OVERSIGHT AGENCY BOARD**

*Eric Olivas, Chair*    *Chantal M. Galloway, Vice Chair*  
*Tara Armijo-Prewitt*    *Patricia French*    *Richard Johnson*  
*Douglas Mitchell*    *Eric Nixon*    *Gionne Ralph*  
Edward Harness, Executive Director

October 14, 2021

Harold Medina, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

**RE: APD Case # 20-0026269-00-00026264, IAFD Case # C2020-000207**

Dear Chief Medina:

My review of this case included:

- Computer Aided Dispatch Reports
- APD Field Services Reports
- Internal Affairs Reports
  - Officer Interviews
- Internal Affairs Force Division Reports
  - Command Review
- On Body Recording Device Videos
- APD Policy 2-23 Use of Canine, APD Procedural Order 6-9 K9 Unit
- APD Policy 2-52 – 2-58 Use of Force

This case involved a level 3 use of force, K9 deployment and K9 use of force. The Force review Board (FRB) found the force within policy. I concur with the FRB findings

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

26. APD SUOF Case # 20-0047022

**CIVILIAN POLICE OVERSIGHT AGENCY BOARD**

*Eric Olivas, Chair    Chantal M. Galloway, Vice Chair*  
*Tara Armijo-Prewitt    Patricia French    Richard Johnson*  
*Douglas Mitchell    Eric Nixon    Glonne Ralph*  
Edward Harness, Executive Director

October 14, 2021

Harold Medina, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

**RE: APD Case # 20-0047022, IAFD Case # C2020-000454**

Dear Chief Medina:

My review of this case included:

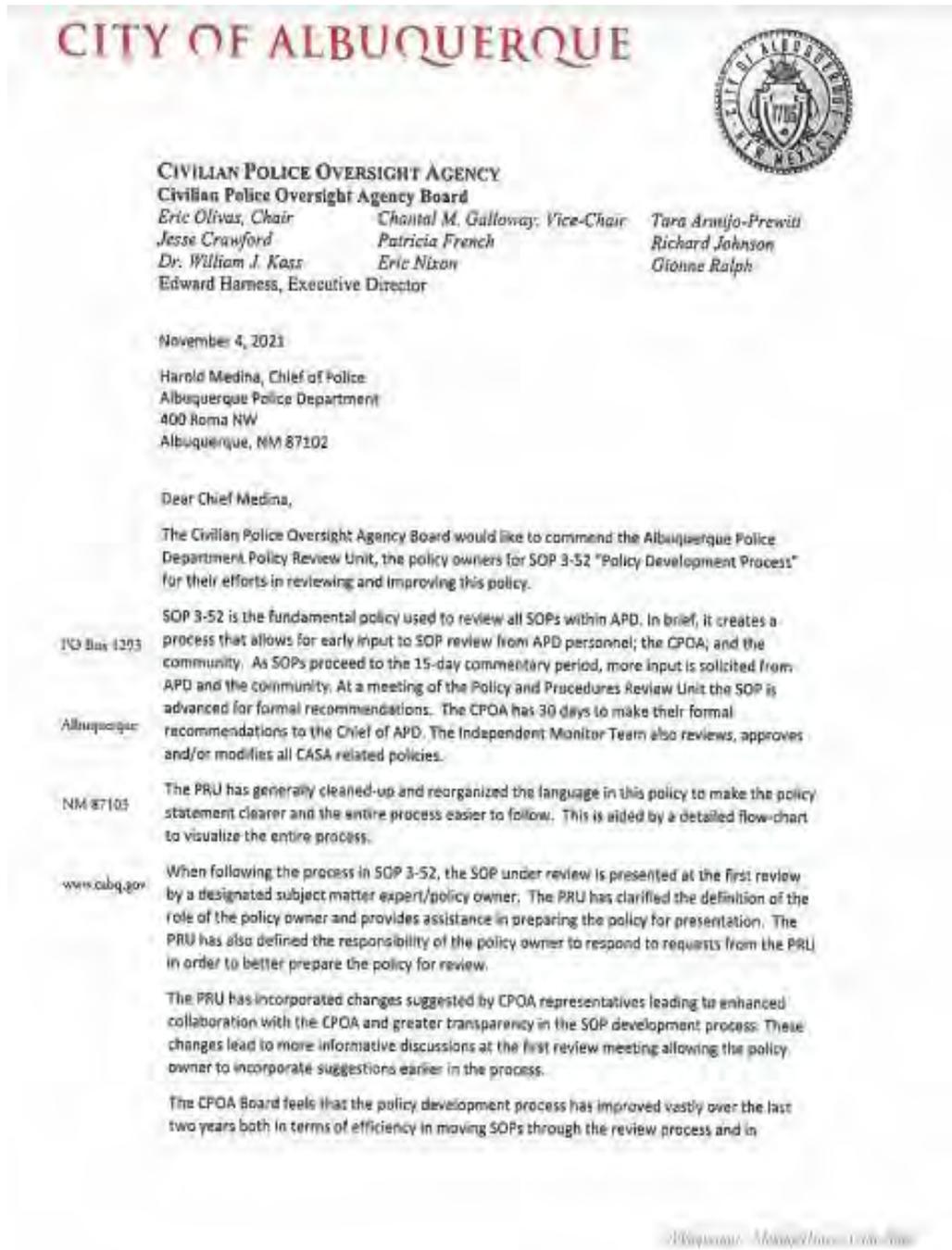
- Computer Aided Dispatch Reports
- APD Field Services Reports
- Internal Affairs Reports
  - Officer Interviews
- Internal Affairs Force Division Reports
  - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 – 2-58 Use of Force

This case involved a level 3 use of force, electronic control weapon (ECW). The ECW was deployed multiple times, and the force caused injury. The Force review Board (FRB) found the force within policy. I concur with the FRB findings.

Sincerely,

/s/Edward Harness  
Edward Harness, Esq.  
Executive Director  
Civilian Police Oversight Agency  
(505) 924-3770

27. SOP 3-52 Commendation Letter



promoting a spirit of cooperation between the CPOA and the PRU. These efforts have resulted in better policies.

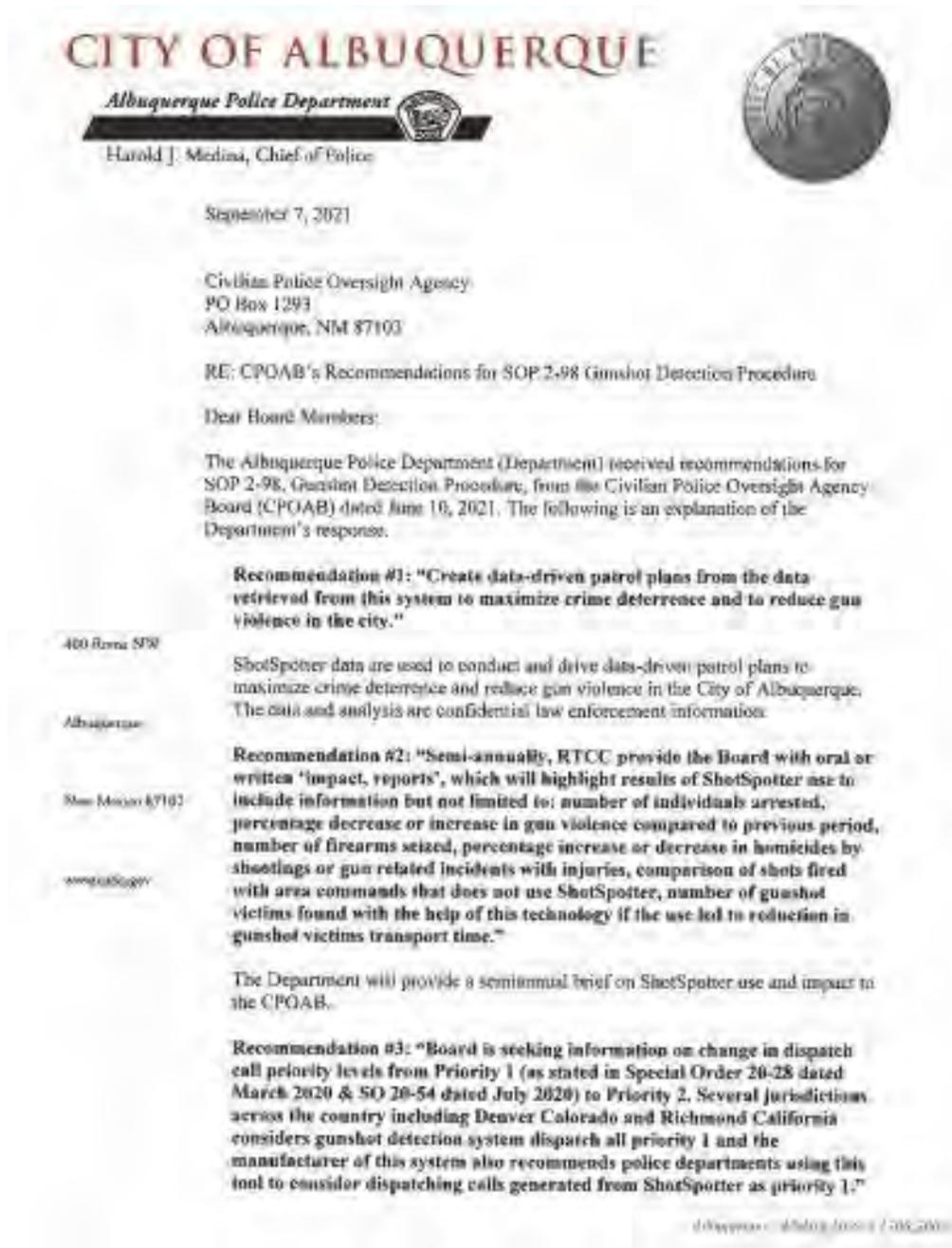
These improvements are in no small part due to the efforts of Acting Commander Sean Waite, Professional Integrity Division, Police Reform Bureau (formerly with the Compliance and Oversight Division) and Patricia Serna, Policy Manager, Policy and Procedure Unit, Compliance and Oversight Division, Accountability and Analytics Bureau. We would like to commend them and the members of their team: SOP Liaison Angelina Medina and Policy Coordinator Officer Tanya La Force, as well as the policy owners for their hard work and diligence in developing a better policy development process.

Sincerely,



Eric Olivas, Chair  
Civilian Police Oversight Agency Board

28. APD Response to ShotSpotter Recommendations



The Department, like all large police departments, has an established call priority system that vary according to the needs of the Department and community. The Department's call priority system is based on a 1 to 5 call priority system.

Priority 1 calls involve any immediate life-threatening situation with a great possibility of death or life-threatening injury, or any confrontation between people that could threaten the life or safety of any person where weapons are involved. Priority 1 calls are calls where those factors are known to exist currently.

Priority 2 calls involve any crime in progress that may result in a threat of injury to a person, major loss of property, or immediate apprehension of an individual. Priority 2 calls also include accidents with injury. A ShotSpotter activation is essentially a notification that a firearm has been discharged, yet there is no confirmation that it has resulted in an actual shooting. Most ShotSpotter activations do not result in the discovery of a shooting victim.

A ShotSpotter activation is a Priority 2 call for service. While the Denver Police Department responds to a ShotSpotter activation as a Priority 1 call, this is based on their call priority system of 0 to 7. Richmond, California uses a similar 1 to 5 call priority system as the Department's. The Department reached out to the Richmond's emergency communications center manager who stated their ShotSpotter activations are categorized as being a Priority 2, not a Priority 1.

Re-categorizing ShotSpotter activations as a Priority 1 call for service would reallocate valuable resources for incidents involving verifiable life-threatening circumstances and use resources for incidents that are less likely to be life-threatening. Moreover, a re-categorization in the call priority would result in ShotSpotter activations being a higher priority than an armed robbery alarm or a domestic violence call that is in progress. An unintended consequence may result in the delay of officers who are available to respond to calls of an emergent nature.

**Recommendation #4: "Board requests that the department notify the Board when seeking approval from the City Council for investments more than \$100,000 in purchasing new technology and equipment. This practice will allow the Board to review and evaluate those particular investments at initial stages, which in turn will increase transparency, promote community trust, and will engrain the Board in the oversight process.**

The Department and the City of Albuquerque are committed to transparency. All Department technology purchases over \$100,000 must go through at least two public processes. The Technical Review Committee is responsible for the initial review and approval of technology purchases of over \$500. The Technical Review Committee conducts its initial review and approval during a public meeting. If the Technical Review Committee approves the proposed purchase, the request is reviewed by the Information Services Committee, which is responsible for reviewing and approving purchases of over \$25,000. The Information Services Committee also conducts its review and approval during a public meeting. Once the Information Services Committee approves the proposed purchase, the request

then follows the normal City procurement process, which, for purchases over \$100,000, entails approval by City Council.

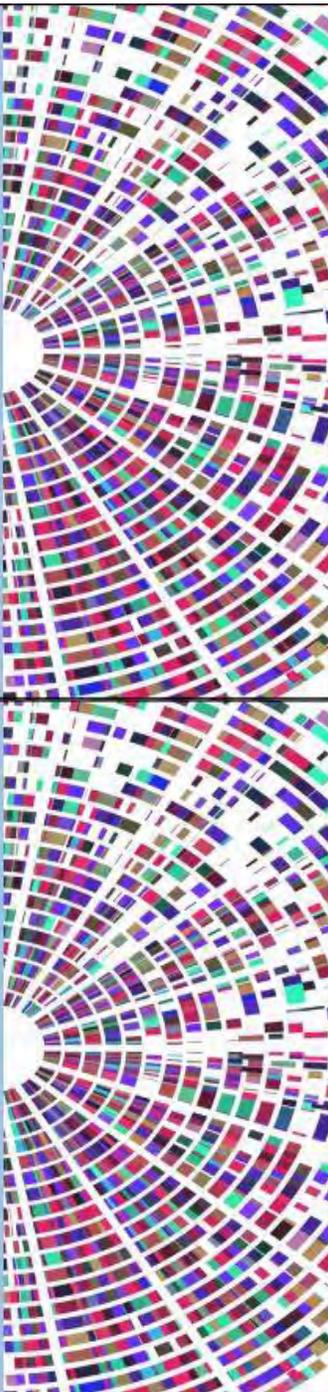
Sincerely,



Harold J. Medina  
Chief of Police

Cc: Cecily Barker, APD Chief of Staff  
Carlos Pacheco, Assistant City Attorney  
Patricia Serna, APD Policy Manager

29. CPOAB Onboarding process presentation



**Prior to Appointment**

- Application Review
- Initial Contact by City Council Staff
- Observe a Meeting
- Meet and Greets
  - Candidate will meet with onboarding committee, Chair, and Executive Director to go over requirements and time commitment
  - Candidate will meet with interested members of City Council
- Appointment

**Foundational Trainings and Tasks to Complete** first 6 months

**Month 1**

- **Public Meetings and Conduct**
  - IPRA
  - GMA
  - Roberts Rules
- **CPOA Training**
  - History of Oversight in Albuquerque
  - Board Policy and Procedures
- First Meeting with Board Mentor to ensure the following:
  - Obtain an email address
  - Obtain tablet
  - Obtain acronyms sheet
  - Access to SharePoint
  - Access to evidence.com
  - City ID
- Schedule Citizen's Police Academy
- Participate in a Board Meeting

## Foundational Trainings and Tasks to Complete first 6 months

### Month 2

- **CASA Training**
- **Ordinance Training**
- **Begin CPA** (if available and not already begun)
- **Second Meeting with Board Mentor**
  - Understanding of players in Albuquerque's oversight process
  - Overview of CASA paragraphs applicable to CPOAB
  - Review acronyms that may still be confusing
  - How to prepare for a Board meeting/email filtering
  - Ensure access to case material is available
  - Review an example of and discuss the differences between CPC and UoFF cases
  - Tips to stay organized
- Practice reviewing remaining cases and compile questions for next meeting with Board Mentor
- Attend first CPOAB committee meeting(s)
- Participate in Board Meeting

## Foundational Trainings and Tasks to Complete first 6 months

### Month 3

- **APD Curriculum**
- **FAST** (if it cannot be combined with CPA)
- **Use of Force** (if it is determined this is not provided during CPA)
- **Begin CPA** (if available and not already begun)
- **Third Meeting with Board Mentor**
  - How to prepare for a Board meeting follow up
  - Acronyms that may still be confusing
  - Questions about ongoing Board business
  - Questions about case review process
- Introduce non-Board meetings that are available for participation
  - APD's Policy and Procedure Committee
  - Amici
  - Public Safety Committee
  - City Council
- Attend CPOAB committee meeting(s)
- Participate in Board Meeting

## Foundational Trainings and Tasks to Complete

first 6 months

### Month 4

- Equity and Cultural Sensitivity Training
- Civil Rights Training
- Begin CPA (if available and not already begun)
- Fourth and Final Meeting with Board Mentor
  - Answer any questions that remain
- Participate in any external meetings that may be of interest
- Attend CPOAB committee meeting(s)
- Participate in Board Meeting

## Foundational Trainings and Tasks to Complete

first 6 months

### Month 5

- Begin CPA (if available and not already begun)
- Complete any additional trainings that have not yet been completed
- Ride Along (optional)
- Participate in any external meetings that may be of interest
- Meet with Board Chair and Executive Director to review completion status of initial training requirements
- Attend CPOAB committee meeting(s)
- Participate in Board Meeting

## Foundational Trainings and Tasks to Complete

first 6 months

### Month 6

- Begin CPA (if available and not already begun)
- Complete any additional trainings that have not yet been completed
- Ride Along (optional)
- Participate in any external meetings that may be of interest
- Meet with Board Chair and Executive Director to review completion status of initial training requirements (if needed)
- Attend CPOAB committee meeting(s)
- Participate in Board Meeting

## Annual Training Requirements

- Legal changes affecting the CASA
- NACOLE training (or other approved training(s) totaling at least 8 hours)
- Roberts Rules of Order
- Two ride alongs every six months

30. MOU Between CABQ, CPOA/Board and the APOA

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**MEMORANDUM OF UNDERSTANDING BETWEEN ALBUQUERQUE POLICE OFFICERS ASSOCIATION AND THE CITY OF ALBUQUERQUE REGARDING CIVILIAN POLICE OVERSIGHT BOARD ACCESS TO OFFICER IDENTIFYING INFORMATION**

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THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into by and between the City of Albuquerque ("City"), the Albuquerque Police Officers' Association ("APOA"), the Civilian Police Oversight Agency ("CPOA"), and the Civilian Police Oversight Agency Board ("Board") (collectively referred to as the "Parties").

**WHEREAS**, the City and APOA have entered into a Collective Bargaining Agreement ("CBA");

**WHEREAS**, pursuant to the Police Oversight Ordinance, Revised Ordinances of Albuquerque, New Mexico, 1994, §§ 9-4-1-1 to 9-4-1-14 ("Ordinance"), the CPOA was established "as an independent agency of city government, not part of either the city administration or City Council [which] consists of the Civilian Police Oversight Agency Board (the 'Board') and an Administrative Office led by the CPOA Executive Director";

**WHEREAS**, the CBA allows the City and APOA to enter into written MOUs to change or amend policies that would be in conflict with the CBA (CBA, Section 32.3);

**WHEREAS**, the Parties desire to enter into an agreement that: protects officer identifying information from disclosure to the public; enables the City, CPOA, and Board to comply with the Ordinance; enables the City, CPOA and Board to comply with the requirements of the Court-Approved Settlement Agreement ("CASA") entered in *United States v. City of Albuquerque*, 14-cv-1025 (Doc. 465-1); and does not jeopardize any criminal investigation due to public disclosure of information obtained by administrative investigators but precluded from use in criminal proceedings pursuant to *Garrity v. New Jersey*, 385 U.S. 493 (1967);

**WHEREAS**, a compelled statement is a statement provided by an officer to an officer's employer if the statement is compelled under threat of dismissal from employment or any other employment sanction (*State v. Chavarria*, 2001-NMCA-095); compelled statements cannot be used in subsequent criminal prosecutions (*Garrity v. New Jersey*, 385 U.S. 493 (1967)); and the CBA states that information from a compelled statement shall not be made public by the City (CBA, Section 20.1.10);

**WHEREAS**, the CBA further states that any information released to the Board shall not contain information that identifies sworn department personnel (CBA, Section 20.1.10);

**WHEREAS**, pursuant to Ordinance, the "Board shall . . . review and approve or amend the findings and conclusions of all investigations completed by the Administrative Office" (Ordinance, § 9-4-1-4);

**WHEREAS**, pursuant to the Ordinance, the Albuquerque Police Department ("APD") "shall provide Board members, the Director, and CPOA staff reasonable access to APD premises, files,

documents, reports and other materials that are reasonably necessary for the agency to perform thorough, independent . . . reviews of serious uses of force and officer-involved shootings” (Ordinance, § 9-4-1-4(C)(3)(b));

**WHEREAS**, the CASA requires the CPOA to conduct thorough and independent reviews of APD’s serious uses of force and officer-involved shootings, and further requires all of the findings made by the Executive Director in conjunction with such reviews to be forwarded to, and reviewed by, the Board (CASA, ¶¶279 – 282);

**WHEREAS**, the CASA requires that the “City shall provide the agency, its investigative staff, and the Executive Director access to . . . the identities of officers involved in incidents under review” (CASA, ¶ 282(b));

**WHEREAS**, so that the Board may conduct its reviews, the CASA requires the City to “provide reasonable access to APD premises, files, documents, reports, and other materials for inspection by those appointed to the agency, its investigative staff, and the Executive Director upon reasonable notice” (CASA, ¶ 283);

**WHEREAS**, the CASA further requires the following: “The City, APD, and the agency shall develop protocols to ensure the confidentiality of internal investigative files and to ensure that materials protected from disclosure remain within the custody and control of APD at all times” (CASA, ¶ 284);

**WHEREAS**, the attempts by APD to redact officers’ faces, name tags, and oral references to officers’ names from on-body recording device recordings has been excessively burdensome and time consuming; and

**WHEREAS**, the City and the APOA have agreed to supplement the CBA currently in effect, and the Parties have agreed to enter into this inter-departmental agreement to further the goals of compliance with the CBA, Ordinance, and CASA, and to ensure protection of officer identities while also ensuring the prompt required sharing of records and materials between APD and the CPOA and Board;

**NOW, THEREFORE**, the parties agree to the following:

**I. TERM OF MOU.**

The Parties agree that, so long as all Parties sign this MOU, the “effective date” is the date that the last party executes this MOU and shall remain in full force until February 1, 2023, but may be extended or incorporated into a successor CBA.

**II. RELEASE OF INFORMATION BY THE CITY TO THE CPOA AND BOARD.**

- A. Prior to the Force Review Board (“FRB”), APD will provide to the CPOA Executive Director all documents provided to the FRB, including investigative recordings that contain compelled statements . The Executive Director shall not submit any documents

or evidence containing compelled statements to the Board; instead, the Board shall comply with the provisions of § 9-4-1-4(C)(3)(d) to review these recordings.

- B. After the FRB completes its review of any serious use of force or officer-involved shooting, APD shall provide the following information to the CPOA Executive Director, who shall release such information to the Board:
1. All written documents and evidence provided to the FRB, excluding administrative interview(s) of the officer(s) under investigation.
    - a. All documents will be redacted by APD in accordance with *Garrity* and the Ordinance, § 9-4-1-4(C)(3)(b) and (d), prior to being provided to the Executive Director for production to the Board; and
  2. On-Body Recording Device ("OBRD") recordings, security recordings, other audio-visual recordings, and audio recordings that do not contain compelled statements.
    - a. Officer names, nametags, and faces will not be redacted from these videos unless the officers are working under cover.

### III. CONFIDENTIALITY OF INFORMATION.

- A. The Parties agree that Section 20.1.10 of the CBA, which states that information from a compelled statement shall not be made public by the City, applies to the CPOA and Board, as agencies of the City.
- B. The Parties agree each of them shall maintain the confidentiality of the identities of all officers as required by the CBA, Ordinance, and CASA, to the extent allowed by law. Accordingly, the CPOA and Board shall not:
1. Release any records containing officer identities;
    - i. Any access to information provided to the CPOA and Board as set forth in this MOU must be obtained through a public records request. If the CPOA or Board receives a request, they will forward said request to the City Clerk's Office.
    - ii. Nothing in this paragraph shall inhibit the City Clerk's office from complying with the provisions of the Inspection of Public Records Act, N.M.S.A. 1978, §§ 14-2-1 to 14-2-12;
  2. Intentionally identify any officer during a public meeting;
  3. Play, display, quote from, cite from, or otherwise discuss any recording, document or evidence in a public meeting if doing so would show any officer's face or disclose any officer's identity; or
  4. Download, record, copy, or retain access to OBRD videos used to conduct reviews of serious uses of force or officer-involved shootings.

### IV. NO FURTHER AGREEMENT.

This MOU incorporates all the agreements, covenants, and understandings between the Parties hereto concerning the matters addressed in this agreement, and all such agreements, covenants and understandings have been merged into this MOU. This MOU expresses the entire MOU and understanding between the parties on the matters described above. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this MOU.

**V. SEVERABILITY.**

In case any one or more of the provisions contained in this MOU or any application thereof shall be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

**VI. Review, Revision, or Termination of MOU**

This MOU shall remain in effect unless and until it is terminated by the Parties. Any request to modify or revise this agreement must be submitted in writing and any modification or revision must be agreed to in writing by the Parties' representatives. Any Party may terminate this agreement by written notification submitted to all participating Parties.

WITNESS WHEREOF, the Parties have executed this agreement which becomes effective as of the date of approval of the final signatory.

\_\_\_\_\_  
Esteban A. Aguilar, Jr.  
City Attorney

\_\_\_\_\_  
DATE

\_\_\_\_\_  
John J. D'Amato  
Counsel for APOA

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Fred Mowrer  
Counsel for APOA

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Dianne McDermott  
Acting Director, CPOA

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Eric Olivas  
President, CPOA Board Chair

\_\_\_\_\_  
DATE

31. CPOAB Letter to the Court

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

### Civilian Police Oversight Agency Board

Chantal M. Galloway, Chair      Jesse Crawford      Patricia French  
Dr. William J. Kass      Eric Nixon  
Diane McDermott, Interim Executive Director

December 9, 2021

Honorable James O. Browning  
United States District Court  
Pete V. Domenici United States Courthouse  
333 Lomas Blvd NW, Suite 660  
Albuquerque, New Mexico 87102

Re: CPOA Board Issues for Consideration in Anticipation of December 16, 2021  
Public Hearing

Dear Judge Browning:

We are writing on behalf of the Civilian Police Oversight Agency (CPOA) Board. Thank you for this opportunity to address some significant issues that continue to pose long-term concerns (i.e. unfilled CPOA Board positions and deteriorating Board morale), and challenges the CPOA Board is currently experiencing regarding accessing specialized training and APD's Serious Use of Force (SUOF) materials. All of these issues are being evaluated by the Monitor, and, with regard to the Board composition issues, have been ongoing concerns for years.

### CPOA BOARD MORALE

The CPOA Board's morale is at a recent low. Particularly concerning are the statements and efforts of the City. The City has made inaccurate public statements, including statements by both the City Attorney and City Councilors, to the effect that the CPOA Board holds the lives and livelihoods of officers in their hands. These claims are ill-informed and undermine an already weak oversight process. Further, the CPOA Board has no power to affect officer discipline or APD policy beyond advisory recommendations.

The CPOA Board's perception is that the CASA parties' actions have undermined its independence by offering criticism of the Board, its members, and its operations. For example, despite providing evidence to the contrary, the City Attorney produced and presented a report on CPOA Board member training to the City Council that was inconsistent with records provided by the CPOA Board. In IMR-14, the Monitor has questioned the authenticity of CPOA Board Members' verification of having completed required training when approximate dates were provided. Given that in some cases it had been over 2 years since Board members completed the initial training and the records maintained by CPOA of these trainings were incomplete, this seems to be a firm over substance position.

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The CPOA Board recognizes and embraces its role in the reform process. It acknowledges its shortcomings and has implemented meaningful solutions to address real issues with its performance and compliance. The CPOA Board recognizes that it must be in a position to function as the monitor when the CASA is complete and it is committed to achieving this goal. It implores those involved in the process to work with it to ensure that the CPOA Board can assume this role when the time comes.

#### **TIMELY ACCESS TO SUOF MATERIALS**

The CPOA Board reviews all SUOF investigations. CASA, ¶ 280; *see also generally* Albuquerque Ordinance, § 9-4-1-4(C). Both the CASA and Albuquerque Ordinance specifically require that the CPOA Board be provided "access to all APD documents, reports, and other materials that are reasonably necessary for the agency to perform thorough, independent investigations of civilian complaints and reviews of serious uses of force and officer-involved shootings." CASA, ¶ 280; *see also* Albuquerque Ordinance, § 9-4-1-4(C)(3) ("APD shall provide Board members, the Director, and CPOA staff with reasonable access to APD premises, files, documents, reports and other materials that are reasonably necessary for the agency to perform thorough, independent investigations of civilian complaints and reviews of serious uses of force and officer-involved shootings.").

The CPOA Board is pleased to report that the technology issues that originally arose with CPOA Board review of FRB presentations and SUOF investigations have largely been remedied. Still, the APOA has demanded that the City redact the OBRD videos—which takes a tremendous amount of APD time and resources. As they were during IMR-13, the City, APOA, and CPOA Board are still in the process of working towards acceptable solutions for SUOF cases. If these discussions are not successful, this is an issue that will warrant increased focus moving forward.

#### **CPOA/CPOA BOARD STAFFING**

The City's oversight ordinance states the CPOA Board shall have nine (9) volunteer members from a broad cross-section of the community (Albuquerque Ordinance 9-4-1-5(A)). It is the City Council's responsibility to appoint Board members (Albuquerque Ordinance, § 9-4-1-5(C)). For the better parts of 2018, 2019, 2020, and through March 2021, the Board had been operating with only six (6) members. While the CPOA Board was fully staffed for a short period of time during IMR-14, there are currently four unfilled positions and the selection process is not transparent. The appointment process for CPOA Board members needs to be clearly defined for the benefit of the public and for prospective CPOA Board members. Transparency should be of paramount importance. This Board requires a full complement to operate as effectively and efficiently as possible.

The CPOA also has significant staffing needs that need to be timely addressed—i.e. investigator positions, policy analyst, community engagement specialist. While it is the CPOA Board's understanding that the CPOA has diligently worked to fill these positions, it is facing delay and other procedural issues with City HR processes. Thus,

while the Monitor has expressed the need to fill these positions during IMR-15, it is unlikely that this will occur. The CPOA Board is hopeful that the City will take steps to remedy these delays so that the positions are filled during the IMR-16 period.

#### CPOA BOARD TRAINING

It is clear from IMR-14 that the CPOA Board training reporting process was lacking, and that training deficiencies cannot continue to occur. To ensure this is not an issue moving forward, the Board has implemented new training processes and procedures, along with a renewed focus on trying to streamline required trainings through ongoing Ordinance amendments. The CPOA Board is hopeful that these changes ensure this issue is remedied.

Again, the CPOA Board appreciates the opportunity to address the Court and will be available to address any questions or concerns at the upcoming status conference.

Sincerely,

Decided by:  
  
~~Chantal M. Galloway~~, Chair  
Civilian Police Oversight Agency

cc via email:

AUSA Elizabeth M. Martinez  
DOJ Trial Attorney Corey M. Sanders  
Steve Aguilar, City Attorney  
Frederick Mowrer, Counsel for APOA  
James Ginger, Ph.D, Independent Monitor

32. SOP 3-41 Recommendation Letter to the Chief

**CIVILIAN POLICE OVERSIGHT AGENCY**

**Civilian Police Oversight Agency Board**

*Chantal M. Galloway, Chair*      *Jesse Crawford*      *Patricia French*

*Dr. William J. Kass*      *Eric Nixon*

Diane McDermott, Interim Executive Director

December 9, 2021

Harold Medina, Chief of Police  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

Recommendation: SOP 3-41 *Complaints Involving Department Personnel*

Dear Chief Medina:

The Civilian Police Oversight Agency Board (CPOAB) is recommending several changes to SOP 3-41 which will allow the Civilian Police Oversight Agency (CPOA) to refer minor civilian police complaints (class sanction 6 or 7), at the discretion of the Executive Director, to the respective Area Command for investigation. This would only include first and second offense violations of class 6 and 7 that involves minimum, presumptive and maximum discipline to not include suspension. Minor policy violations involve conduct, that if sustained, would result in discipline or corrective action less severe than a suspension based on the Chart of Sanctions identified in SOP 3-46 Discipline System.

The CPOA receives significant number of complaints that even if investigated, will lead to minor discipline (verbal or written reprimand). The current CPOA investigative team is short staffed that does not allow a timely investigation for all complaints received. This practice will allow the CPOA to focus on more severe allegations and will help alleviate the concerns regarding investigative timelines. The timeliness for completing complaint investigations has been criticized by the Independent Monitoring Team in the recent monitoring reports. Also, this will benefit APD since the monitor criticized several investigations conducted by the area command as 'deficient' in the most recent report. The final review of the civilian complaint investigations by area command will be done by the CPOA, which in turn will allow for another set of eyes to review the final work product of the area command investigation. The CPOA Board hereby recommend changes in SOP 3-41 that will allow the CPOA to have the same criteria for assignment of civilian complaints as done by the Internal Affairs Professional Standards. Recommended language and placement of the language in SOP 3-41 will include the following:

In section 3-41-5 (Civilian Police Complaints), to add C. "Assignment of Civilian Police Complaints (CPC)" to include;

*1. All civilian complaints shall be investigated by a CPOA Investigator, an IA Investigator, a designated supervisor, or an external contract investigator approved by the City of Albuquerque purchasing guidelines.*

*2. The CPOA has the discretion to refer complaints involving minor policy violations to a commander/division head for investigation and recommended findings.*

*a- A complaint requiring the interviews of multiple witnesses and Department personnel from various assignments or extensive documentation retrieval shall be investigated by the CPOA.*

*b- If the subject employee's record demonstrates that a sustained violation could result in suspension, the CPOA shall investigate the complaint.*

*c- Rules regarding supervisory investigations of minor policy violations include:*

*i. A supervisor shall not investigate the complaint if the supervisor:*

*1- was involved in the incident, including use of force incidents;*

*2- was involved in the actions that are the subject of the complaint;*

*3- authorized the actions that are the subject of the complaint; or*

*4- is a witness to the incident that is the subject of the complaint.*

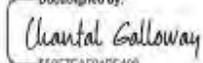
*ii. If a supervisor has been assigned an investigation and falls under one of these rules, the supervisor shall notify the CPOA in order to have the investigation reassigned.*

*d- Review and final approval of the investigative findings and recommendations of the appropriate discipline shall be completed by the CPOA Director and approved by the CPOAB.*

Thank you for your consideration. We look forward to your response to our recommendations above, in compliance with your obligations under §9-4-1-4(C) (5) (c) of the Civilian Police Oversight Agency Ordinance.

Sincerely,

The Civilian Police Oversight Agency Board by

DocuSigned by:  
  
Chantal M. Galloway, Chair

cc: Civilian Police Oversight Agency

