

CIVILIAN POLICE OVERSIGHT BOARD

Thursday, February 11, 2016 – 5:00 PM
Vincent E. Griego Chambers, Basement Level
City/County Government Center – One Civic Plaza NW
Albuquerque, New Mexico

Members Present:

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

Members Absent

Dr. Moira Amado-McCoy

Others Present:

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

Minutes

- I. **Welcome and call to order:** Chair Leonard Waites called the meeting to order at 5:00 pm.
- II. **Pledge of Allegiance** – Board Member Fine led the Board in the Pledge.
- III. **Approval of the Agenda:** Copies of the agenda were distributed. Chair Waites requested that Item VII. be moved to come directly before item X. Member Wilson moved to approve the agenda with changes. Member Mohr seconded the motion. **Approved.**
- IV. **Public Comments:** The following is a summary of comments given to the Police Oversight Board by members of the community:
 - A. Community member Tony Pirard stated that he has been going to many of the CPC meetings and believes many neighbors are unaware of the meetings. Information for neighbors about the CPCs is scarce and seems to be run through APD. At the CPC held at the Unser Library, there were APD officers voting and seconding motions and Mr. Pirard tried to speak up about it. Mr. Pirard stated that he was ganged up on by the officers who told him that he was wrong about their right to vote in the meeting. He feels he is owed an apology and that Mr. Harness should have put a stop to it. The website is sparse as far as information about CPCs. People need to know more about the CPCs and help build up trust with the police department.

- ii. The members discussed informing complainants that their complaints are public record.

VII. Consent Agenda Cases:

014-14	018-14	023-14	002-15	003-15
004-15	006-15	008-15	012-15	014-15
015-15	016-15	020-15	021-15	023-15
024-15	025-15	027-15	028-15	029-15
035-15	036-15	037-15	039-15	041-15

- A. Member Wilson described the process of investigation and review for citizen police complaints (CPCs). The current Board started with a backlog of over 100 complaints. Cases are available to POB members for their review before the POB meeting and members are able to discuss complaints as they see necessary.
- B. Member Wilson moved to approve the group of CPCs as a consent agenda. Member Fine seconded the motion. **Approved.**
For: Waites, Mohr, Fine, Baca, Brown, Cruz, Wilson, Ring

See “Attachment A” for Summaries of CPCs.

VIII. Case to be heard by the POB: 184-15 - Director Harness read a summary of CPC 184-15. Director Harness recommends a written reprimand for Sustained finding.

- i. Member Wilson moved to accept findings letter as published. Member Fine seconded the motion. **Approved.**
For: Wilson, Mohr, Ring, Fine, Baca, Cruz, Waites, and Brown.
- ii. A question was raised about why the Sergeant in this case was not also found to have violated SOP. Since the case has already passed the 120 day time limit, it cannot be reopened. Board would like a training recommendation for the Sergeant to come from Internal Affairs.

IX. Officer Involved Shooting I-48-15:

- A. The Board suggests waiting until the March POB meeting to hear OIS I-48-15, since they have not had time to review the case. Director Harness has made his findings and recommendations in this case. APD Union and the City Attorney have agreed to extend the time limit on this case in order to allow for the POB to review it in March.
- B. Member Wilson moved to table consideration of I-48-15 until the March meeting, and to request access to the Garrity material in the case. **Approved.**
For: Mohr, Waites, Brown, Fine, Baca, Cruz, Ring, Wilson.

C. Mark Baker will find out what is required to access the Garrity material for the Board.

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

A. Member Wilson moved to amend the agenda to proceed with items XII. and XIII. Member Mohr seconded the motion. **Approved.**
For: Waites, Mohr, Brown, Baca, Fine, Cruz, Ring, and Wilson.

B. At 6:40 p.m. Member Wilson moved to have the Board go into a closed session with Attorney Mark Baker to discuss matters subject to the attorney-client privilege pertaining to threatened or impending litigation in which the CPOA is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7). Member Ring seconded. **Approved.**
For: Waites, Fine, Wilson, Ring, Cruz, Baca, Mohr, and Brown.

C. At 7:17 p.m. Board Member Cruz moved to have the Board officially reconvene having come back from closed session to discuss only matters subject to the attorney client privilege pertaining to threatened or impending litigation in which this public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7). Member Ring seconded. **Approved.**
For: Waites, Fine, Wilson, Cruz, Ring, Baca, Mohr, and Brown.

XI. Discussion and possible action on Open Meetings Act complaint from Paul Livingston: The Board has reviewed the Open Meetings Act complaint by Paul Livingston and has found no violations of the Act.

XII. Subcommittee Reports:

- A. **Outreach Subcommittee – Jeannette Baca:** Member Baca reported that the Outreach Subcommittee last met on January 25, 2016.
- i. Discussed changes to the complaint form.
 - ii. Member Baca moved to accept the complaint form with the changes discussed. Member Mohr seconded the motion. **Approved.**
For: Brown, Ring, Wilson, Mohr, Baca, Cruz, Waites, and Fine.
 - iii. Member Baca moved to list Board Member emails on the CPOA website. Member Fine seconded the motion. **Passed.**
For: Brown, Ring, Wilson, Mohr, Baca, Cruz, and Fine
Opposed: Waites
 - iv. Discussed IPRA, group emails, and which emails must be saved by Members.

- v. Discussed and reviewed possible logo designs and postage options for the brochure. Decisions about the brochure should be made at the next POB meeting.
- vi. POB is sponsoring Sam Cochran visit this month for Crisis Intervention training.

B. Policy and Procedures Subcommittee – Susanne Brown:

- i. Member Brown has drafted a letter to Chief Eden about being cut out of the process for policy change, as well as comments on Use of Force Policy. The letter will be brought to the Board for approval.
- ii. Rewrite of Policy 3-65 was approved by the PPRB.
- iii. The Chairs of the six CPCs have been invited to attend the next Policy Subcommittee.

C. Case Review Subcommittee – Jeffery Scott Wilson: The Case Review Subcommittee last met on January 26, 2016.

- i. The CRC has been working on creating a flow chart to illustrate the process of how cases are reviewed.
- ii. The Subcommittee would like the CPOA to post redacted draft letters to the website.
- iii. Discussed how to minimize complaints that need CIT.
- iv. Looking for a solution to the problem of complaints that are filed a long time after the incident has occurred.
- v. One goal of the CRC is to deal with back log of cases.

XIII. City Reports:

A. Lt. Garcia, Internal Affairs

- i. Discussed how discipline is enforced, how the process of suspensions works, and APD vehicle accidents.
- ii. See “Attachment B” for Internal Affairs Statistical Data.

B. Julian Moya, City Council:

- i. Council staff is working on reappointment for POB and planning to introduce the issue at next week’s Council Meeting. Member Baca and Member Cruz are up for reappointment.

C. Mayor’s Office – no one present to give report

D. City Attorney – no report

E. CPOA Executive Director Edward Harness:

- i. The CPOA is currently running at a budget surplus.

- ii. The City Council appropriated an extra \$128,000 for the first year, of which \$75,000 is for Attorney fees. The rest is for training and upgrading equipment.
- iii. Director Harness is doing reference checks for the Analyst Position.
- iv. In January, the CPOA received 20 Job Well Done reports. 16 new complaints are in the review process.
 - v. Investigators will attend Use of Force Training in March.
 - vi. Received second DOJ Report and email from Dan Giaquinto. There are issues with witness development and timeliness. The monitoring team is impressed with the hard work, commitment and cooperation of the CPOA and IA.

XIV. Other Business:

- A. The Board members need to complete their ride-alongs with APD.
- B. Member Wilson moved to appoint Member Mohr as the new Chair of the POB. Member Fine seconded the motion. **Approved.**
For: Baca, Brown, Waites, Wilson, Fine, Cruz, and Ring.
- C. Member Wilson moved to appoint Chair Waites as the new Vice-Chair of the POB. Member Ring seconded the motion. **Approved.**
For: Baca, Brown, Wilson, Fine, Cruz, Ring, and Mohr.

XV. Adjournment: Member Mohr moved to adjourn the meeting. Board Member Wilson seconded the motion. Passed. For: Waites, Cruz, Baca, Brown, Wilson, Ring, Fine, and Mohr. The meeting adjourned at 8:36 p.m.

- Next regularly scheduled POB meeting will be on Thursday, March 10, 2016 at 5 p.m. in the Vincent E. Griego Chambers.

APPROVED:

Beth Mohr, Chair
Civilian Police Oversight Agency

Date

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

“Attachment A”

CPC Summaries – February 2016

CPC 014-14 – A complainant stated that Officer L. did not conduct a thorough investigation after she was hit by a car while crossing a street and that Officer L. placed her at fault for the accident. Records and lapel video was reviewed by the CPOA investigator and it was determined that Officer L. had conducted a thorough investigation and his findings were accurate. The allegations against Officer L. were EXONERATED.

CPC 018-14 – A citizen alleged that Officer C. had unlawfully towed her car, discriminated against her, and made a personal stop while transporting her to jail. An investigation revealed that the allegation of misconduct regarding towing the complainant’s car was UNFOUNDED. The allegation of misconduct regarding discrimination was NOT SUSTAINED, due to the fact that there was no way to prove or disprove the allegation. A violation of General Conduct SOP was SUSTAINED, as there was convincing evidence that Officer C. did make a stop for personal reasons while transporting the complainant. The CPOA found a SUSTAINED VIOLATION NOT BASED ON ORIGINAL COMPLAINT, concerning lack of lapel video of the interaction with the complainant.

CPC 023-14 – A citizen complained that during a search of her home, Detective C., Officer Z. and Officer S. used excessive force, conducted an illegal search, and endangered her children. An investigation by CPOA showed that officers had probable cause to search the home because a family member was a suspect in an armed robbery and had fled when officers tried to speak to him. The officers’ conduct was EXONERATED. The citizen also complained that her property was damaged. The officers did not recall anything being damaged in the home and there was no evidence of damage. The allegation of misconduct was NOT SUSTAINED. The allegation of illegal search by Detective C. was EXONERATED.

CPC 002-15 – A citizen complained that her gun had been seized by APD during the arrest of her ex-boyfriend. She was later told that Officer D. had released the gun to her ex-boyfriend’s brother. According to Officer D., the ex-boyfriend had requested that the firearm be released to his brother, and since the brother had been cleared by NCIC, there was nothing preventing the release of the firearm to him. The gun had not been reported as stolen or missing. Since no SOP violations occurred, the allegation against Officer D. was EXONERATED.

CPC 003-15 – A citizen filed a complaint against Officer V. after video-taping him speeding in his patrol car. Officer V. admitted to speeding, stating that he was responding to a family emergency and trying to get to the hospital. Officer V. also stated he increased his speed after realizing the citizen was following him because he found the citizen’s behavior suspicious. The allegations of violating SOPs concerning General Conduct, Driving Behaviors, and Use of APD Vehicles were found to be SUSTAINED.

CPC 004-15 – A citizen complained that Officer C. had threatened to arrest him regarding a custody dispute with the citizen’s ex-wife and had not taken any action when he told Officer C. he was concerned about his children. Lapel video showed that Officer C. did not threaten arrest and that Officer C. advised both parties that they needed to follow the custody order or get input from the court. The allegations of misconduct were found to be UNFOUNDED.

CPC 006-15 – A citizen alleged that she was falsely arrested, her room was illegally searched, that she was sexually assaulted, that police used excessive force and were unprofessional. The CPOA investigated the complaint, including review of lapel video, and found the Officer’s conduct to be professional and use of force reasonable and necessary. No search was done of the complainant’s room. Evidence showed that no sexual assault occurred. The arrest was legal and proper. The allegations of misconduct against Officer R. were EXONERATED and UNFOUNDED. The allegations of misconduct against Officer G. were EXONERATED and UNFOUNDED. The allegations of misconduct against Detective G. were EXONERATED and UNFOUNDED. A violation of SOPs concerning a lapse in lapel video was SUSTAINED NOT BASED ON ORIGINAL COMPLAINT against Officer R. and Officer G.

CPC 008-15 – A citizen alleged that Officer P. and Officer W. did not file a report, did not do an investigation into her complaint against her neighbor, and that they were rude and unprofessional. The CPOA investigation found that the citizen did not ask for a report, although Officer P. did make notes in CAD. The citizen also asked Officer P. to leave her home and told him an APD detective was helping her. The lapel video showed that the officers were professional and interested in helping the citizen. The citizen has a long history of problems with her neighbor and is assigned a CIT detective to assist her with her issues. The allegations of misconduct by Officer P. were found to be EXONERATED. The allegations of misconduct by Officer W. were found to be UNFOUNDED.

CPC 012-15 – A citizen complained that she witnessed an officer driving unsafely and speeding. The CPOA investigated the complaint based on the vehicle number provided by the complainant. A review of Officer D.’s log showed that he was conducting some type of administrative duty at the time. A recruit officer was assigned to the officer that week, but the records didn’t show if the recruit officer was there at the time of the alleged misconduct. Officer D. could not recall anything about the alleged incident. Due to the lack of evidence the allegation was found to be NOT SUSTAINED.

CPC 014-15 - A citizen complained that during a domestic disturbance incident, Officer R. allowed her husband to be released from custody even though she felt he was still a threat and had damaged property in the home. She also alleged that there was inaccurate information in the police report and she also felt that Officer R. was degrading to her. A thorough investigation into the complaint determined that the alleged violation of SOPs concerning Investigations/Documentation, Arrests, and Use of Lapel Video were SUSTAINED. The allegation that Officer L. was unprofessional was NOT SUSTAINED.

CPC 015-15 – A citizen alleged that Officer M. was unprofessional and refused to file a report after she called them about a fake Craigslist sex ad her ex-boyfriend had allegedly posted containing her information. A CPOA Investigator reviewed the lapel video and records of the incident and found that Officer M. was professional and had also filed a report. The allegations of misconduct were UNFOUNDED.

CPC 016-15 – A citizen complained that Officer T. and Officer C. were rude and disrespectful to her during a stop at a DWI Checkpoint. Based on the investigation it was unclear if Officer T. and Officer C. were the officers in direct contact with the citizen since there were four officers on scene. No report was filed because the citizen was not arrested for DWI. The investigation determined that a violation of SOP concerning Use of Lapel Video was SUSTAINED because evidence showed that none of the officers had activated their lapel cameras as required. The other allegations of misconduct were NOT SUSTAINED due to a lack of evidence to prove that any misconduct had occurred.

CPC 020-15 – A citizen filed complaints against Officer M. and Officer W. alleging that the officers had colluded with the person the citizen was having a dispute with, that the officers lied about details of the incident, and that they had refused to give their names when asked. An investigation, which included review of lapel video, revealed that the officers had treated both people the same, were professional and had not violated any SOPs. All allegations of misconduct were UNFOUNDED.

CPC 021-15 – A citizen complained that after reporting possible abuse against a child, she herself was investigated by police because she had contact with the child. She also complained that Detective O. gave private information about her to another person investigating the case. The CPOA's investigation revealed that the department was required to investigate the citizen since the child was already in the CYFD system and they are required to look into anyone who has contact with the child. The allegation of misconduct was UNFOUNDED. It was also shown that Detective O. never had access to the complainant's private records and did not share any information about her. The allegation of misconduct was UNFOUNDED.

CPC 023-15 – A citizen complained that during a stop at a DWI checkpoint his wife was left outside with no jacket for over an hour, he was arrested before being given a breath test and that Officer F. was rude and intimidating. A review of lapel video showed that Officer F. was not rude or intimidating and that the citizen's wife was given a jacket after twenty minutes. Officer F. followed proper protocol regarding the arrest and breath test. Officer F. failed to continue recording the incident after the breath test was administered, however. The allegations of misconduct were NOT SUSTAINED. A violation of SOP concerning Use of Lapel Video was SUSTAINED. A violation of SOP concerning Use of Lapel Video by Recruit Officer D. was SUSTAINED.

CPC 024-15 – A citizen alleged that during a domestic disturbance incident, Officer E., Officer S., and Officer J. were incompetent and out of line, were coddling his girlfriend, and made inappropriate comments. The CPOA investigation, including review of lapel

video, showed that the officers conducted themselves properly and professionally in questioning both parties. The allegations of misconduct by Officer E. were EXONERATED and UNFOUNDED. The allegation of misconduct by Officer J. was UNFOUNDED. The allegation of misconduct by Officer S. was UNFOUNDED.

CPC 025-15 – A citizen complained that while renting an apartment to APD Officer W., the officer intentionally violated terms of the lease, left completed police reports in the trash, and was unprofessional with her. The citizen complained that Officer W. failed to conduct himself in a professional manner while off-duty. A CPOA Investigator determined that Officer W. had violated the terms of the lease and had left copies of police reports in the trash. A violation of SOP concerning General Conduct was SUSTAINED.

CPC 027-15 – A citizen complained that during a phone call with Sergeant P., the Sergeant was rude and demeaning to her and did not explain the process of filing a complaint. The CPOA Investigator reviewed the recording of the phone call placed by the citizen and found that Sergeant P. had explained the complaint process to the citizen and had tried to get more information from her. The allegation of a violation of SOP was UNFOUNDED. Based on the recording, the Investigator also found that Sergeant P. was attempting to be helpful and only spoke sternly to the citizen when the citizen became argumentative, but was at no point rude or demeaning. The alleged misconduct was found to be EXONERATED.

CPC 028-15 – A citizen alleged that Detective R. was rude, yelled at her, accused her of lying, interrupted her continually, and didn't allow her to give her full version of events. A review of the audio recording of the interview showed that Detective R. had acted professionally and that no misconduct had occurred. The allegation of misconduct was UNFOUNDED.

CPC 029-15 – A citizen alleged that Detective M. treated her unprofessionally, did not handle evidence properly, and discriminated against her. The CPOA Investigator found that Detective M.'s conduct was proper and complied with SOP. The allegations of misconduct were UNFOUNDED and EXONERATED.

CPC 035-15 – A citizen alleged that Officer B. had not responded to phone calls he made regarding an incident with a security guard at a store, and that he'd been unable to file a complaint against the security guard. An investigation revealed that Officer B. had responded appropriately and timely when the incident occurred. The allegation of misconduct by Officer B. was EXONERATED.

CPC 036-15 – A citizen complained that Officer T. did not respond properly to her complaint about a neighbor. The citizen also alleged that Sergeant L. threatened her, that he accused her of lying, and told her to stop bothering CIT detectives. The investigation showed that Officer T. did respond appropriately to the citizen's complaint. The allegation of misconduct by Officer T. was UNFOUNDED. A violation of SOP concerning Use of Lapel Video was SUSTAINED. The allegation of misconduct by

Sergeant L. was NOT SUSTAINED. A violation of SOP concerning Use of Lapel Video was SUSTAINED.

CPC 037-15 - A complainant alleged that Police Service Aide S. broke her windshield wiper when placing a ticket on her windshield. An investigation revealed that the PSA did not remember the complainant's car specifically, but did recall putting a ticket on a car that had a broken wiper blade. The citizen had not recently checked her wiper blades, and did not discover it was broken for several days after getting a ticket. Since there was no evidence that the PSA broke the wiper, the allegation was NOT SUSTAINED.

CPC 039-15 – A citizen alleged that Detective G. was incompetent, biased, intimidating, and threatened him with arrest. The citizen also alleged that Detective G. ignored evidence, did not collect evidence, and disregarded death threats made against his sister. The CPOA's investigation revealed that while one recorded conversation showed Detective G. was professional with the complainant's sister, there was not enough evidence to prove or disprove the allegations of misconduct. The allegation of misconduct was NOT SUSTAINED. The investigation showed that Detective G. followed proper procedures for investigating and collecting evidence. The allegation of misconduct regarding evidence was UNFOUNDED.

CPC 041-15 – A complaint was filed against Officer M. alleging that Officer M. had arrested her daughter and filed an inaccurate report and did not contact her to get details about the incident. The investigation determined that Officer M. made an attempt to contact the citizen, but did not leave a message. The allegation of misconduct was NOT SUSTAINED. The allegation of inaccuracies in the police report was found to be EXONERATED.

CPC 184-15 – A citizen complained that when she was arrested Officers took possession of her wallet in order to retrieve her identification. When she picked it up from evidence it had been damaged and \$750.00 was missing. The investigation revealed that Officer I. took her identification out of her wallet, then left it on top of the squad car, and drove off with the wallet still on top of the car. Officer M. later recovered the wallet from Coors Blvd. Officer M. did not book the wallet into evidence immediately because the computer system was down. The wallet remained in Officer M.'s trunk until his Supervisor reminded him to log it into evidence. The CPOA found the allegation against Officer M. concerning Evidence Safekeeping was SUSTAINED. The allegation against Officer M. concerning Evidence Tagging was SUSTAINED. Lapel video was reviewed and no paper currency was visible in the wallet when the officer retrieved the complainant's identification. The allegation concerning Officer M.'s conduct was UNFOUNDED. The allegation concerning Evidence Safekeeping for Officer I. was SUSTAINED.

“Attachment B”

POLICE OVERSIGHT BOARD
INTERNAL AFFAIRS
STATISTICAL DATA FOR THE MONTH OF JANUARY 2016

APD 911 Communications Center
Dispatched calls for Service for JANUARY 2016: 39,880

INTERNAL CASES FOR THE MONTH OF JANUARY 2016

I's

Internal Cases Received: 7

Comprised of:

- 5-Internal Affairs Investigated case
- 2-Area Command Investigated cases

Internal Cases Administratively Closed: 1

Internal Cases Mediated: 0

Total Internal Cases Completed the Month of JANUARY: 9

Comprised of:

- 5-Internal Affairs cases
- 2-Area Command cases
- 2-Preventable Vehicle Accident

Discipline imposed for Internal Cases/ JANUARY 2016:

3: Letter of Reprimand
1:8 hour Suspension
2:32 hour Suspension
1:80 hour Suspension
1:120 hour Suspension
1:Resignation in Lieu of Termination

Standard Operating Procedures (recommended)

Admin Orders:

3-66-3C2a

Conduct:

1-04-1A	1-04-1C1	1-04-1D	1-04-1E
1-04-1F	1-04-1G	1-04-4D	1-04-4J2
1-04-4P	1-04-4Q	1-04-4U	1-04-6F
1-04-6K	1-04-7C		

General Orders:

1-39-1A

City Rules and Regulations:

301.1	301.3	
902.1G	902.1L	902.1M1,2,3

Pending Cases for the Month of JANUARY 2016: 7