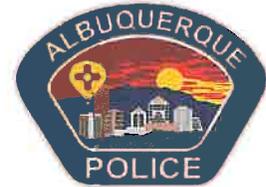




Richard J. Berry
Mayor

City of Albuquerque

Albuquerque Police Department



Gorden E. Eden, Jr.
Chief of Police

October 14, 2015

Interoffice Memorandum

To: Bill Slauson, Executive Director, Administrative Support Bureau, APD

From: Gabriel Cruz, Quality Assurance Auditor II, Audit Division, APD

Subject: Paragraph #196 – Settlement Agreement Compliance Review

Purpose: This memo is to provide a report on the compliance review of the stated paragraph(s) of the Settlement Agreement (SA) between The City of Albuquerque’s Police Department (APD) and the Department of Justice (DOJ) in pursuant to SA objective #196.

Settlement Agreement Objective: Within six months of the Effective Date, and annually thereafter, the Internal Affairs Bureau and the Civilian Police Oversight Agency (CPOA) shall review APD’s anti-retaliation policy and its implementation. This review shall consider the alleged incidents of retaliation that occurred or were investigated during the reporting period, the discipline imposed for retaliation, and supervisors’ performance in addressing and preventing retaliation. Following such review, the City shall modify its policy and practice, as necessary, to protect individuals, including other APD personnel, from retaliation for reporting misconduct.

Items Reviewed and/or Observed:

The following documents have been reviewed:

- APD’s Standard Operating Procedure (SOP) 1-04 Personnel Code of Conduct illustrating anti-retaliation
- Interoffice Memorandum from Internal Affairs Commander Arturo Gonzalez highlighting a May 5, 2015 meeting between Commander Gonzalez and CPOA Acting Director Robin Hammer to review, discuss, and make recommendations in regards anti-retaliation cases and policy.

In addition, per the SA we noted that latest SOP 1-04 which is currently under Monitor review has included recommendations from Commander Gonzalez and Robin Hammer and approved by the Standard Operating Procedure Review Committee (SOPRC).

Conclusion: In agreement with the APD’s Independent Monitor, we feel that APD and the CPOA adequately reviewed anti-retaliation cases and have made appropriate recommendations to APD’s policies and procedures, bringing APD/CPOA in compliance with objective #196 of the Settlement Agreement.


Gabriel Cruz, Quality Assurance Auditor II

10/14/2015
Date


Bill Slauson, Executive Director, Administrative Support Bureau

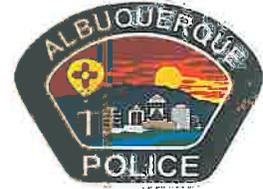
10/14/15
Date



Richard J. Berry
Mayor

City of Albuquerque

Albuquerque Police Department



Gorden E. Eden, Jr.
Chief of Police

May 6, 2105

Interoffice Memorandum

To: William (Bill) Slauson, Executive Director, Administrative Support Bureau
From: Arturo E. Gonzalez, Commander, Professional Accountability Division
Subject: Settlement Agreement, DOJ, Preventing Retaliation – Paragraph 196.

On May 5, 2015 at 1300 hours, Civilian Police Oversight Agency (CPOA) Acting Executive Director Robin Hammer and I reviewed Albuquerque Police Department's current anti-retaliation policies and implementation, as mandated in the Department of Justice (DOJ) Settlement Agreement Paragraph 196. Settlement Agreement Paragraph 196 is found in the Section VIII, Misconduct Complaint Intake, Investigation and Adjudication. DOJ paragraph 196 states:

196. Within six months of the Effective Date, and annually thereafter, the Internal Affairs Bureau and the Civilian Police Oversight Agency shall review APD's anti-retaliation policy and its implementation. This review shall consider the alleged incidents of retaliation that occurred or were investigated during the reporting period, the discipline imposed for retaliation, and supervisors' performance in addressing and preventing retaliation. Following such review, the City shall modify its policy and practice, as necessary, to protect individuals, including other APD personnel, from retaliation for reporting misconduct.

Paragraph 196, addresses a review of APD's retaliation policies for reporting misconduct. The Albuquerque Police Department current Standard Operating Procedures (SOPs) prohibit retaliation in two sections. The Department prohibits retaliation through **Personnel Code of Conduct Rule 1-04-4(N)** which states:

Rule 1-04-4(N). Personnel will not act officiously or permit personal feelings, animosities, or friendship to influence their decisions.

Another current anti-retaliation policy, which has a level five sanction, is also outlined in **Personnel Code of Conduct Rule 1-04-6(I)**.

Rule: 1-04-6(I) states:

Personnel shall not knowingly interfere with criminal or administrative investigations, assigned tasks, or duty assignments of another, and shall not directly or indirectly, by threat or bribe, attempt to secure the withdrawal or abandonment of a complaint or charges. Personnel shall not, without previous authorization from the primary investigator or immediate supervisor, conduct any criminal or administrative follow-up investigation outside the scope of their assignment.

After conferring, CPOA Acting Executive Director Hammer and I agreed that SOP Rule 1-04-6(I) should be amended to specifically address retaliation for the filing an administrative or criminal complaint or allegation. On March 16, 2015, the Professional Accountability Division proposed to the Standard Operating Procedure Review Committee (SOPRC) that the additional language be included to 1-04-6(I):

Retaliation for reporting misconduct or for cooperating with an investigation of misconduct shall be grounds for discipline, up to and including termination of employment. (DOJ ¶197 ¶195)

The SOPRC is currently reviewing this proposed additional language for SOP Rule I-04-6(I) to specifically address retaliation for making an allegation against an APD employee.

Also at our meeting on May 5, 2015, Acting Executive Director Hammer and I conducted an audit all Internal Affairs and Civilian Police Complaints cases decided from 2007 to present which included allegations of violations of SOP Rules 1-04-6(N) and 1-04-6(I).

Upon audit of cases alleging violations of SOP Rule 1-04-6(N), revealed 128 cases. Of these 128, six (6) were found to contain allegations of retaliation, five (5) Citizen Complaints and one (1) Internal Affairs case. Upon review, the five (5) Citizen Complaints, did not relate to "retaliation" as described in DOJ paragraph 196, but rather there was an allegation that police action was in retaliation for the citizens' prior actions or feelings. These five complaints claimed acts of "retaliation" as a result of police action, e.g. subject receiving a citation, and not as a result of a citizen initially complaining on an officer or employee.

One Internal Affairs case, I-131-07, involved an allegation for retaliation for making an administrative or criminal complaint. In this case, an APD employee was found to be violation of 1-04-4(N) for retaliation for another employee making an administrative complaint. The employee was sustained on SOP 1-04-4(N). The Chief imposed discipline in that case resulting in the demotion of the employee.

Twenty-two (22) cases were reviewed during an audit of all cases containing allegations of violations of SOP Rule 1-04-6(I). None of these cases related to "retaliation" for making a criminal or administrative complaint as described in Paragraph 196.

Acting Executive Director Robin Hammer fully participated in and endorsed the review of the described Internal and Civilian complaints. Acting Executive Director Hammer also will provide a copy of this Memo to the full Police Oversight Board for their consideration. As described by the DOJ mandate, we agreed to schedule an annual meeting between, as the Commander of the Professional Accountability Division, and Ms. Hammer as the CPOA Executive Director, to review APD's retaliation Policies and implementation. Our next review is currently set for May 5, 2016.

Memo to Mr. Slauson

RE: Settlement Agreement Paragraph 196, Anti-Retaliation Policies

May 7, 2015

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cc: Robert Y. Huntsman, Assistant Chief
Gerald Cruz, Quality Assurance Auditor
Robin, Hammer, Acting Executive Director, CPOA
Police Oversight Board



ALBUQUERQUE POLICE DEPARTMENT
GENERAL ORDERS

SOP 1-04

Effective: xx/xx/xx Expires: xx/xx/xx Replaces: 10/10/12

1-04 PERSONNEL CODE OF CONDUCT

1-04-1 Policy

Personnel of the Albuquerque Police Department are expected to follow a prescribed code of conduct and to act responsibly while on and off-duty. The Department holds its personnel accountable for all actions which reflect adversely on the department.

1-04-2 Rules

A. Compliance with Laws, Rules, and Regulations

- [1-7] 1. Personnel shall obey all laws, rules and regulations, and to the best of their abilities, protect the rights of the people as provided in the Constitution of the United States; to include all felony, misdemeanor, and traffic laws, and civil orders of any jurisdiction in which they are present.
- [1-3] 2. Personnel shall maintain all state certification requirements and standards as set by the State Law Enforcement Academy. Permanent revocation of certification shall be prima facie evidence of a violation of this section.
 - [4] a. Upon receiving notification that their certification has been suspended or revoked by the Law Enforcement Board, personnel will notify their respective Deputy Chief/Major through their chain of command within 24 hours.
- [4] 3. Any employee served with an order of protection will immediately provide a copy of any Protective Order, which affects him/her, through his/her chain of command to the Assistant Chief.
- [1-7] 4. Personnel shall not commit or omit any acts which constitute a violation of any of the rules, regulations, directives, or orders of the department. [DoJ 150]
 - a. Personnel shall report violations of policy.
 - b. Personnel shall be held accountable for policy and procedure violations.
 - c. Supervisors of all ranks shall be held accountable for identifying and responding to policy or procedure violations by personnel under their command.
- [7] 5. Personnel shall conduct themselves both on and off-duty in such a manner to reflect most favorably on the department.
6. Conduct unbecoming an officer or employee shall include:
 - a. That which could bring the department into disrepute
 - b. That which interferes or compromises the efficiency of personnel
 - c. That which impairs the operation or efficiency of the department



ALBUQUERQUE POLICE DEPARTMENT
GENERAL ORDERS

SOP 1-04

Effective: xx/xx/xx Expires: xx/xx/xx Replaces: 10/10/12

- [5] 3. Personnel shall avoid regular or continuous associations or dealings with persons whom they know are under active criminal investigation or indictment, or who have a reputation in the community or the department for present involvement in felonious or criminal behavior, except as necessary in the performance of official duties, or where unavoidable because of other personal relationships.
- [5] 4. Personnel shall not knowingly visit, enter, or frequent a house of prostitution or illegal gambling house, except in the performance of duty or while acting under specific orders from a supervisor.
- [5] 5. Officers shall not frequent any establishment wherein the laws of the United States, the State, or the local jurisdiction are regularly violated.
6. Personnel shall not criticize or ridicule the department, its policies, or other personnel in a manner which:
- a. Is defamatory
 - b. Is obscene
 - c. Is unlawful
 - d. Undermines the effectiveness of the department
 - e. Interferes with the maintenance of discipline
 - f. Is made with reckless disregard for the truth
7. Personnel shall not present themselves as the official representative of the department, without prior authority.
- [1-5] 8. Personnel shall treat the official business of the department as confidential. Information regarding official business shall be disseminated only to those for whom it is intended, in accordance with established department procedures.
- [1-5] 9. Personnel shall not knowingly interfere with criminal or administrative investigations, assigned tasks, or duty assignments of another, and shall not directly or indirectly, by threat or bribe, attempt to secure the withdrawal or abandonment of a complaint or charges. Personnel shall not, without previous authorization from the primary investigator or immediate supervisor, conduct any criminal or administrative follow-up investigation outside the scope of their assignment.
- a. Retaliation for reporting misconduct or for cooperating with an investigation of misconduct shall be grounds for discipline, up to and including termination of employment. [DoJ 195/197]
10. Personnel shall be required to provide information regarding their own Internal Affairs file only when ordered by a court of competent authority, the Chief, or deputy chief. When in doubt, personnel should seek advice of counsel, court, or chief.
11. Personnel shall at all times be responsible for the safeguard, proper use, and maintenance of all departmental issued property. All authorized equipment shall be