



ALBUQUERQUE POLICE DEPARTMENT
ADMINISTRATIVE ORDERS

SOP 3-41 (Formerly 3-22 and 3-43)

Effective 05/12/2023 Review 05/12/2024 Replaces 10/19/2021

3-41 COMPLAINTS INVOLVING DEPARTMENT PERSONNEL

Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):

A. Related SOP(s)

[1-61 Internal Affairs Force Division \(Formerly 7-2 and 7-3\)](#)

[1-62 Internal Affairs Professional Standards \(IAPS\) Division \(Formerly 7-1\)](#)

B. Form(s)

[PD 1102 Civilian Police Oversight Agency \(CPOA\) Complaint or Commendation Form](#)

C. Other Resource(s)

Collective Bargaining Agreement (CBA) between the City of Albuquerque and the Albuquerque Police Officers' Association at

www.cabq.gov/humanresources/bargaining-unit-contracts

Garrity v. New Jersey, 385 U.S. 511 (1967)

NMSA 1978, §§ 66-7-1 to 66-7-11 Application of Traffic Laws

City of Albuquerque Administrative Instruction (AI) Number 1-5 Records Management

ROA 1994, §§ 9-4-1-1 to 9-4-1-14 Civilian Police Oversight Agency

D. Rescinded Special Order(s)

None

3-41-1 Purpose

The purpose of this policy is to ensure all complaints against Albuquerque Police Department (Department) personnel are reported in a timely manner, that immediate and proper intake of complaints is performed upon receipt, and that the complaints are timely and thoroughly investigated. It is also the purpose to ensure Department personnel and community members can file a complaint without concern for retaliation.

3-41-2 Policy

It is the policy of the Department, through the Internal Affairs Professional Standards (IAPS) Division, Internal Affairs Force Division (IAFD), and the Civilian Police Oversight Agency (CPOA), to fairly and accurately assess, process, and investigate complaints against Department personnel using the procedures set forth in this Standard Operating Procedure (SOP).

N/A 3-41-3 Definitions

A. Administrative Investigation



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An investigation into potential violation(s) of Department SOP(s) or City of Albuquerque Personnel Rules and Regulations.

B. Administrative Investigator

Any Department personnel, CPOA personnel, or contracted external investigator charged with conducting an administrative investigation of either a Civilian Police Complaint (CPC) or internal investigation.

C. Apparent Criminal Conduct

Prima facie proof of an act or omission, which, if proven, would violate federal law, state law, or other local criminal law, excluding for minor traffic violations.

D. Civilian Police Complaint (CPC)

An external allegation or report about a Department employee's action or failure to act. External allegations are those made by non-Department personnel, other than personnel of the City Attorney's Office and City Administration.

E. Civilian Police Oversight Agency (CPOA)

An independent agency of City government, not part of either the City administration or City Council, which was created by City ordinance, consistent with the Civilian Police Oversight Agency Ordinance, ROA 1994, §§ 9-4-1-1 to 9-4-1-14.

The CPOA receives, investigates, and reviews complaints and commendations submitted by community members concerning Department personnel. The CPOA also reviews Department policies, practices, and procedures, in order to provide recommendations throughout the policy development process and ultimately to the Chief of Police.

F. Civilian Police Oversight Agency Board (CPOAB)

A board comprised of community members appointed by City Council tasked with reviewing and making recommendations to the Department on policy, reviewing administrative investigations into officer policy violations and making recommendations for discipline, and reviewing uses of force and other critical incidents to make disciplinary findings.

G. Complaint

An internal report of an act or omission allegedly committed by Department personnel that constitutes a violation of Department SOP; or an alleged violation of a federal law, state law, or other local criminal law.

H. Disposition



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The outcome of the investigation after determination by the chain of command, including both the final determination and discipline imposed.

I. Findings

1. The recommended disposition for each allegation, based upon that totality of the investigation. Each allegation shall result in one of the following findings:
 - a. Administratively Closed: The allegations are duplicative or an investigation cannot be conducted because of the lack of information in the complaint.
 - i. Only the Commander of the Internal Affairs Professional Standards (IAPS) Division, Internal Affairs Force Division (IAFD), Deputy Director of Police Reform, or the Executive Director of Police Reform can approve this finding.
 - b. Exonerated: The investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate Department policies, procedures, or training.
 - c. Not Sustained: The investigation is unable to determine, by a preponderance of the evidence, whether the alleged policy violation occurred.
 - d. Sustained: The investigation determined, by a preponderance of the evidence, that the alleged policy violation did occur.
 - e. Unfounded: The investigation determined, by clear convincing evidence, that the alleged policy violation did not occur or did not involve the subject officer.

J. Force Investigations Section (FIS)

A section within IAFD that investigates uses of force.

K. "I" Number

A unique investigative number assigned by the IAPS Division to an allegation of policy violation for tracking and recording purposes.

L. Internal Affairs (IA)

The Divisions of the Department responsible for fairly, impartially, and thoroughly investigating internal complaints of policy violations by Department personnel and uses of force.

M. Internal Affairs Force Division (IAFD)

The administrative investigative body for the Department that reviews uses of force and certain policy violations related to the use of force.

N. Internal Affairs Professional Standards (IAPS) Division



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The administrative investigative body for the Department that investigates alleged policy violations from internal complaints.

O. Internal Affairs Request (IAR)

A formal, written request for an Internal Affairs (IA) investigation.

P. Internal Complaints

Complaints made by Department personnel, the City Attorney's Office, or City Administration alleging policy violations.

Q. Internal Force Complaints

Complaints made by Department personnel or identified during a use of force investigation alleging an out of policy use of force or show of force at any level.

R. Mediation

The process of resolving a conflict through discussion, negotiation, and compromise, without formal investigation or fact-finding. Mediation is appropriate when a complaint does not present a policy violation, but instead indicates interpersonal conflict or an employee or community member's misunderstanding of Department SOP(s).

S. Minor Policy Violations

Conduct that, if sustained, would result in discipline or corrective action less severe than a suspension based on the Chart of Sanctions.

T. Minor Traffic Violations

Violations of New Mexico statutes (NMSA 1978, §§ 66-7-1 to 66-7-11), except driving while under the influence of intoxicating liquor or drugs (DWI), reckless driving, leaving the scene of an accident, and vehicular homicide, or violations of analogous laws of other states. Parking violations are neither minor traffic violations nor apparent criminal conduct.

U. Preliminary Investigation

The assessment and initial investigation into the allegations of the complaint.

V. Policy Violation

A violation of Department policies or procedures; violation of federal, state, or local criminal laws; constitutional violations, whether criminal or civil; violation of personnel rules; or violation of administrative rules or regulations.



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W. Retaliation

Conduct or action designed to serve as retribution against another, including any deliberate, purposeful actions or failures to act that cause or could reasonably expect to cause physical harm, property damage, significant emotional stress, or some other serious negative outcome.

X. Serious Policy Violation

Conduct that, if sustained, would result in discipline of a suspension, demotion, or dismissal.

3-41-4 Procedures

5 A. Reporting Policy Violations, Encouraging Reporting, and Prohibiting Retaliation

1. Department personnel shall report all known policy violations and all policy violations of which they reasonably should have known about.
2. Department personnel shall encourage community members to promptly report complaints so that full investigations can be conducted expeditiously and the full range of disciplinary and corrective action be available for consideration.

2 3. Department personnel shall not discourage either Department personnel or community members from reporting policy violations or making complaints.

- a. Failure to cooperate with an investigation of policy violation, is grounds for discipline, up to and including termination of employment.

1 4. Department personnel shall not take any adverse action against any individual or group, including both Department personnel and the community, in response to that individual or group reporting alleged policy violations or filing a CPC and participating in the investigation.

- a. Department personnel shall not retaliate against personnel or community members who report a policy violation or file a complaint.

6 B. Complaints

1. The Department shall accept complaints regardless of when they are filed.
2. Department personnel shall assist anyone wishing to file a complaint.
3. Department personnel who have, or reasonably should have, knowledge of potential policy violation(s) shall complete an Internal Affairs Request (IAR) through the IA database web application no later than twenty-four (24) hours after obtaining that knowledge.



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- a. The report does not have to be approved through the personnel's chain of command; however, the commander/division head of the employee who is the subject of the complaint shall be copied on the IAR entry.
 - b. Department personnel shall use the IAR template through the IA database web application and include a summary of all the incident details and the reported policy violation(s).
 - c. Internally initiated audits, inspections, and assessments by the Compliance and Oversight Division shall follow an established internal review process prior to reporting any potential policy violation. The internal review process shall proceed until a final Inspection Findings Report is sent to the Compliance and Oversight Division commander or designee.
 - d. The Compliance and Oversight Division commander or designee shall complete an Internal Affairs Request (IAR) through the IA database web application no later than twenty-four (24) hours after obtaining a final Inspection Findings Report.
4. The Department shall track allegations regarding policy violations involving individuals experiencing homelessness, behavioral health issues, and/or who are developmentally delayed, whether or not these conditions are related to a complaint.

3-41-5 Civilian Police Complaints (CPC)

6 A. Resources

1. All Department personnel shall familiarize themselves with the resources available to assist community members with their complaints against the Department and/or its personnel. The resources are:
 - a. CPOA phone number (505-924-3770);
 - b. CPOA website (<https://www.cabq.gov/cpoa>);
 - c. CPOA email address (cpoa@cabq.gov); and
 - d. CPOA Complaint or Commendation Forms and brochures in English and Spanish, which are located at all Department substations, libraries, IA FD, the IAPS Division, community centers, the Department law enforcement center, APDonline.com, and the CPOA office;
2. All sworn personnel shall carry CPOA Complaint or Commendation Forms in English and Spanish in their Department-issued vehicles. Sworn personnel shall provide the CPOA Complaint or Commendation Form to anyone who indicates they are making a complaint or commendation, or who would like to register to make a complaint or commendation regarding Department personnel.
3. Complaints made by community members can be entered into the IA database web application without printing the CPOA Complaint or Commendation Form.



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B. Receipt of Civilian Police Complaints (CPC)

1. Telephone and In-Person Complaints

- a. When a community member makes a complaint, either in-person or telephonically, Department personnel contacted by the community member shall notify a supervisor who, if available, shall respond to the scene, commence the complaint intake process, and speak with and assist the community member.
- b. If a supervisor is unavailable, Department personnel shall advise the community member of the resources available to initiate an investigation into their complaint and, at the community member's preference, assist them in completing a CPOA Complaint or Commendation Form with all provided details.
- c. Department personnel shall enter the CPOA Complaint or Commendation Form into the IA database web application within twenty-four (24) hours of being informed by an individual wishing to file a complaint or commendation.
- d. Department personnel shall endeavor to provide the community member with the CPOA Complaint or Commendation Form, consistent with this SOP; however, if Department personnel are unable to provide the form, they shall advise the community member about the resources available for initiating a complaint and offer to contact a supervisor to come out and assist the community member with filing a complaint.
- e. The community member has the choice of using the resources provided or speaking with a supervisor.
 - i. Department personnel shall notify a supervisor of an interest in making a complaint even if the community member elects not to have a supervisor come out. When feasible, the supervisor shall submit a CPOA Complaint or Commendation Form, consistent with this SOP.

2. Written Complaints

- a. Complaints received by mail, electronic mail, or facsimile shall be promptly forwarded to a supervisor by Department personnel receiving the complaint.
- b. The supervisor shall enter the complaint into the IA database web application within twenty-four (24) hours.

3. Complaints Related to a Judicial Proceeding

- a. On an annual basis, the IAPS Division Commander shall notify, in writing, the chief judges from the Second Judicial District Court, the Bernalillo County Metropolitan Court, U.S. District Court, the District Attorney's Office, and Public Defender's Office of the complaint process, and request that any judicial or prosecutorial findings of officer misconduct be forwarded to the IAPS Division. The IAPS Division shall keep records of annual notifications and responses, consistent with the City's record retention policy.



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- b. Complaints received from any of these entities shall be handled as a complaint from a community member and entered into the IA database web application within twenty-four (24) hours.
- c. If complaints relating to a judicial proceeding are made by Department personnel or an employee of the City Attorney's Office or City Administration, they shall be investigated as internal complaints.

4. Third-Party or Anonymous Complaints

- a. A person is allowed to file a complaint on behalf of another person.
- b. A person is allowed to file a complaint even when the person had no direct involvement in or first-hand knowledge of the incident the person is complaining about.
- c. A person is allowed to file a complaint anonymously.
- d. These types of complaints shall be accepted, assessed, processed, and investigated in the same manner as any other complaint.

5. Department Personnel's Responsibilities for Civilian Police Complaints

- a. Department personnel shall:
 - i. Provide their first and last name and man number when requested by a member of the community;
 - ii. Immediately notify a supervisor when a community member requests a CPOA Complaint or Commendation Form and/or immediately notify a supervisor when a community member wishes to make a complaint;
 - iii. Fully cooperate with all community member complaint investigations to include:
 1. Truthfully answering all questions; and
 2. Providing requested City-owned items/documents under their control.
 - iv. For Department personnel who are summoned regarding a CPC, notify their first line supervisor upon notification; and
 1. Supervisors shall facilitate the person's appearance.
 - v. Report for interviews on time.

6. Supervisor Duties for Civilian Police Complaints

- a. Supervisors shall:
 - i. Respond to the scene when they are notified that a community member requests to make a CPC or has requested them;
 - ii. Ensure the CPOA Complaint or Commendation Form is filled out as thoroughly as possible and entered into the IA database web application within twenty-four (24) hours of receiving the complaint alleging policy violation;
 - iii. If supervisors are notified of a complaint about an allegation of policy violation that just occurred, unless it is not feasible to do so immediately, take additional investigatory steps by:
 1. Interviewing the complainant;



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2. Gathering any relevant evidence;
3. Identifying all potential witnesses; and
4. Identifying the employee(s) involved.
- iv. Immediately inform the employee's chain of command and the IAPS Division when they are notified of an allegation of apparent criminal conduct by a Department employee.

7. IAPS Division Responsibilities for Civilian Police Complaints

- a. The IAPS Division shall ensure all CPCs received are entered into the IA database web application and provided to the CPOA no later than three (3) business days from receipt of the complaint.

3-41-6 Apparent Criminal Conduct

6 A. Civilian Police Complaint During Intake

1. If, during intake, the IAPS Division believes a CPC indicates apparent criminal conduct, the IAPS Division shall notify the chain of command and still forward the complaint to the CPOA.
 - a. The IAPS Division shall notify the CPOA of the apparent criminal conduct.

B. Civilian Police Complaint

- N/A**
1. If the CPOA believes a CPC indicates apparent criminal conduct, the CPOA shall transfer the administrative investigation to IAPS, consistent with SOP Internal Affairs Professional Standards (IAPS) Division (refer to SOP Internal Affairs Professional Standards (IAPS) Division for sanction classifications and additional duties).

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2. The IAPS Division Commander shall immediately notify the Chief of Police or the Executive Director of Police Reform.

6 C. Internal Policy Violation or Use of Force Complaint

1. For all cases indicating apparent criminal conduct, the appropriate IA division shall assume administrative case responsibility and shall notify the proper criminal investigative unit or agency to evaluate the case for a criminal investigation.
2. The investigator shall immediately, or no later than the end of their shift, notify their Commander.
3. The Commander shall immediately, or no later than the end of their shift, notify the Chief of Police or the Executive Director of Police Reform through their chain of command.



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6 D. Concurrent Administrative and Criminal Investigations

1. The Chief of Police, the Executive Director of Police Reform, or their designee shall consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation.
2. The Department shall not delay the administrative investigation due to a pending criminal investigation.
3. The Department shall consult with the prosecuting agency before taking a compelled statement or statement of the subject officer in any case where there is a concurrent criminal investigation.

3-41-7 Internal Complaints

A. Reporting

N/A

1. The IAPS Division shall be the central intake for all identified or suspected violations of Department SOP.

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2. Upon identification of a policy violation, or having reasonable cause to believe that a policy violation has occurred or may have occurred, Department personnel shall immediately initiate an IAR by using the IAR template through the IA database web application. The IAR shall be completed within twenty-four (24) hours of the identification of the policy violation.

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B. Assignment

1. All internal Department complaints shall be investigated by an IA investigator, a designated supervisor, or an external contract investigator approved by the Chief of Police, Executive Director of Police Reform, or City Attorney's Office. The IAPS Division Commander shall provide the CPOA the opportunity to audit and monitor all IA investigations.
2. IA 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 IAPS Division or IAFD.
 - b. If the subject employee's record demonstrates that a sustained violation could result in suspension, the IAPS Division or IAFD 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;



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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 appropriate IA division in order to have the investigation reassigned.
 - d. If the chain of command disagrees with the assignment, they may appeal to the Chief of Police or the Executive Director of Police Reform who will make the final decision.
3. Internal complaints against IA or any personnel assigned to these divisions shall be investigated by a designee of the Chief of Police or the Executive Director of Police Reform.
4. If a criminal investigation is being conducted or may be conducted:
 - a. Where there is probable cause to believe an employee has committed a crime, an investigator shall not compel an employee to provide a statement, nor issue a *Garrity* warning, until after consulting with the relevant prosecuting agency and obtaining approval of the Chief of Police or the Executive Director of Police Reform.
 - b. The criminal and administrative investigations shall be conducted concurrently.
 - c. Department personnel shall not share information obtained during administrative investigations with law enforcement officers and prosecutors conducting a criminal investigation.
 - d. Department personnel conducting administrative investigations may receive information from the criminal investigator, attend briefings by the criminal investigator, and observe interrogations by the criminal investigator only through a monitor system.
5. Investigation Timelines
 - a. Internal complaint investigations shall be completed within the deadlines set forth in the CBA.
 - b. The IA division commanding officer determines whether an investigation is complete, and shall approve the completed investigation.
 - c. The investigation shall be considered completed after an IA division commanding officer approves the completed investigation.
 - d. The Chief of Police has the discretion to grant an extension, when necessary, not to exceed any deadlines required by the CBA.
 - i. A longer extension may be granted in extenuating circumstances, with the negotiated approval of the recognized exclusive bargaining agent, such as military deployments, officer hospitalizations, and extended absences, upon agreement by the Chief of Police or their designee and the employee or their representative.
 - e. Review and final approval of the investigative findings and imposition of the appropriate discipline shall be completed by a Commander, Deputy Chief,



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Deputy Director of Police Reform, Chief of Police, or the Executive Director of Police Reform within the timeline determined by the CBA.

5 3-41-8 Search of Personal and Department Property

- A. Department-issued property and Department facilities are subject to search at any time.
- B. Tangible personal property can be searched when it is subject to an administrative investigation or when the employee is interviewed about Department or City property. Otherwise, personal property shall be searched only with permission of the person in lawful possession and actual control of the property, or pursuant to a valid search warrant or warrantless search that constitutes a legal exception to the warrant requirement as recognized by New Mexico courts or when a valid search warrant is issued.

2 3-41-9 Cooperation During An Investigation

- A. All Department personnel are required to cooperate with the IAPS Division or IAFD, and CPOA investigations, including appearing for an interview when requested by any assigned investigator.
- B. Department personnel shall respond, and respond truthfully, to all questions by personnel conducting administrative investigations.
- C. Department personnel shall provide any and all documents and evidence under their control to the investigator upon request.
- D. Investigators shall ensure the supervisor of any employee to be interviewed is notified of the pending interview unless notice would jeopardize the investigation.

- E. The supervisor of the employee shall facilitate the employee's appearance for interviews.

6 3-41-10 Additional Investigation Considerations

- A. The use of any deception detection examination or technique shall be consistent with the current CBA that applies to the employee. If the CBA does not apply, such use may be allowed only by order of the Chief of Police after all other reasonable investigative techniques were exhausted.
- B. Photographs taken by Department personnel as part of a criminal investigation may be used in an administrative investigation, as well as photographs on file with the Department.



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- C. Department personnel shall not be directed to participate in a line-up as part of an internal investigation; however, the results of a line-up conducted in a criminal case may be used in an internal investigation.
- D. Department personnel are not required to disclose information regarding their financial information unless all other reasonable investigative means have been exhausted or except as otherwise required by law and approved by the Chief of Police, following consultation with a City of Albuquerque attorney.

6 3-41-11 Maintenance and Analysis of Complaint Information

- N/A** A. Department personnel shall cooperate with requests for information from the City Attorney's Office or City Clerk's Office.
- B. The Department shall allow the Executive Director of the CPOA to audit and monitor all IA investigations consistent with the City Ordinance.
- 2** C. All Department personnel shall maintain the confidentiality of information contained in the IA database web application to the extent required by law.
 - 6** 1. The IA database web application shall maintain all complaint and use of force information.
 - 6** 2. The pertinent information in the IA database web application shall be electronically connected to the Performance Evaluation and Management System (PEMS).
 - 6** 3. The CPOA shall have access to the information in the IA database web application to review civilian complaints, use of force cases, IAPS cases, and trend analysis.

6 3-41-12 Reporting Requirement

- A. The IAPS Division and IAFD shall provide a monthly update to the Executive Director of the CPOA regarding all open internal investigations. The report shall contain, but is not limited to:
 - 1. Investigator assigned;
 - 2. Case number;
 - 3. Investigation open date;
 - 4. Employee subject of investigation;
 - 5. Alleged violations;
 - 6. Investigator findings; and



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7. Discipline recommendation.