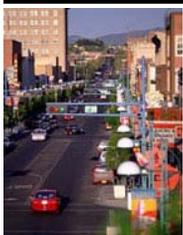


City of Albuquerque, New Mexico Evaluation of the Police Oversight Ordinance and the Police Oversight System



As prepared by
MGT of America, Inc.
502 East 11th Street, Suite 300
Austin, Texas 78701
(512)476-4697 (T)
(512)476-4699 (F)
www.mgtofamerica.com (W)

TABLE OF CONTENTS

	PAGE
1 Introduction and Background	
Introduction.....	1-1
Background.....	1-2
Major Players.....	1-12
This Report’s Structure.....	1-15
Acknowledgments.....	1-16
2 Project Approach and Methodology	
Project Approach.....	2-1
3 Background of Police Oversight	
Background.....	3-1
Models of Police Oversight.....	3-3
4 Findings & Recommendations for the Police Oversight Process	
5 Findings & Recommendations-the Police Oversight Commission	
Police Oversight Ordinance.....	5-1
Atypical Complaints.....	5-5
6 Findings & Recommendations-Independent Review	
Background.....	6-1
7 Findings & Recommendations-Internal Affairs	
Background.....	7-1
8 Other APD Accountability Mechanisms	
Background.....	8-1
Early Warning Systems.....	8-2
Use of Force Reporting.....	8-7
Risk Management.....	8-9
Critical Incident Review Board.....	8-10
Policy Review Board.....	8-11
Training Committee.....	8-13
Safety Review Board.....	8-14

TABLE OF CONTENTS (cont'd)

	PAGE
9 Findings & Recommendations-Police Shootings	
Background.....	9-1
Shooting Investigations.....	9-1
10 Conclusions	
Appendices	
Appendix A: Models of Civilian Oversight	
Appendix B: Jerome Report Recommendations & Status	
Appendix C: Appeal Processes in Other Cities	
Appendix D: Summary of Recommendations	

1-Introduction and Background

1 INTRODUCTION AND BACKGROUND

Introduction

In May 2005, the City of Albuquerque released a Request for Proposals (RFP) for an “Evaluation and Analysis of the Police Oversight Ordinance and Police Oversight System.” This evaluation and analysis will be the third study of the police oversight process in Albuquerque since 1997. The Police Oversight Ordinance, adopted in 1998, requires an independent consultant to complete an evaluation and analysis of the entire police oversight process every four years and to recommend changes or amendments that would improve the process.

MGT of America, Inc. responded to the RFP and was selected by the city in November 2005 to conduct the evaluation and analysis (the study). The contract between MGT and the City of Albuquerque was executed on December 8, 2005, and work on the project began in early January 2006.

The MGT consultant team consisted of senior level staff from MGT’s Austin, Texas office and two independent subcontractors, both of whom have more than 30 years experience each as police officers and commanders. One of the police officer team members is currently the deputy police chief of the Reno, Nevada, Police Department and the other is a former police chief of Ormond Beach, Florida, Police Department, and had served more than 20 years in the Washington, DC Police Department. The other members of the team have extensive experience conducting program evaluations, management reviews and performance audits, with most of their experience focused on law enforcement and corrections departments.

MGT relied on a rigorous project work plan to guide the project. The work plan served as a guide for the consultant team to help ensure the project remained on track. The project approach and methodology are more fully described in the next chapter of this report.

Background

After years of only internal police oversight and investigations of citizen complaints of members of the City of Albuquerque's Police Department (APD), a Police Advisory Board (PAB) was created by the Albuquerque City Council in June 1978. This was the city's first foray into civilian oversight of its law enforcement agency. After numerous reviews by committees, boards, task forces, independent counsels, and two major external consulting firms, civilian oversight of the police department has been in its present form since the passage of the Police Oversight Ordinance in 1998.

The 1998 ordinance created the Police Oversight Commission (POC) "to provide oversight of the Albuquerque Police Department and oversee all citizen complaints..." The unique model of the City of Albuquerque's police oversight process was based on police oversight processes and oversight agencies in other cities. It was not taken from any particular city but is more of a compilation of many of the best practices found in other cities.

A Brief History

Prior to 1978 oversight of the police department was strictly an internal matter. In June 1978, based on growing concern over civil liability for actions of some APD members, especially those involving officer shootings, the Albuquerque City Council created the Police Advisory Board (PAB). Its purpose was to provide some civilian oversight over certain police actions. About the same time, a six-month long investigation into allegations of police brutality at APD began.

The PAB proved largely ineffective. In 1987, the City Council created the Office of Independent Counsel and it adopted the Independent Counsel Ordinance to provide civilian review of police internal affairs investigations, which was beyond the PAB's role. The City Council amended the ordinance in 1989 to rename the PAB the Public Safety Advisory Board,

which expanded the role of the PAB to include oversight of the fire and corrections departments and continued the Independent Counsel oversight role over APD internal affairs investigations.

Concern over insufficient civilian oversight remained. In March 1996, the City Council ordered a study be conducted regarding civilian oversight of the police. The council approved a contract for an independent review by consultants Sam Walker and Eileen Luna of the University of Nebraska at Omaha. They issued the Walker–Luna report in February 1997. The report concluded that the existing oversight process and mechanisms were “not functioning effectively.”

City leadership exhibited wisdom and courage by hiring Mr. Walker to conduct the study. He is at the top of a list of experts in this subject area and he and Ms. Luna provided a detailed report that listed findings and recommendations describing the current system’s deficiencies.

The Walker-Luna 1997 Report

In 1997, the Albuquerque Police Department was facing problems. This study concluded that the rate of fatal shootings by APD officers over the past decade was unusually high, while the crime rate in Albuquerque was very close to the national average. There were also problems of high annual payments for tort claims involving police officers, an inadequate citizen complaint system, and much tension between the APD and parts of the city’s community. To conduct this study, consultants reviewed official documents, conducted personnel interviews, performed an audit of the Internal Affairs section, and conducted a survey of police officers. The consultants also compared Albuquerque with other jurisdictions.

Citizen Complaint Process

The responsibility for investigating citizen complaints had been with the Internal Affairs (IA) section of the APD. The mission of the Internal Affairs section is to “ensure that investigations by IA are conducted in a manner conducive to public confidence, good order, discipline and good management practices.” IA investigated both citizen complaints (CPCs) and internal complaints (called I’s) that were initiated by APD supervisory officers. Official

complaints were made when a citizen provided his or her name and contact information and signed a completed written statement. Unofficial complaints were of a non-criminal nature made by a citizen who refused to complete a signed statement. The report found that IA did sustain a high rate of the complaints, and it did receive and publish detail information about complaints in its quarterly report.

The Walker-Luna study found there was not a pattern of racial or ethnic bias in IA's investigations and there was a large number of officers who wanted more discipline in the department and were not opposed to citizen oversight. IA had failed in its mission because many in the community were unaware of its existence or purpose and the number of complaints received by the IA unit in 1995 and 1996 was relatively low when compared to other jurisdictions. Citizens were not filing complaints when they should and a brochure explaining the process was not widely available.

The Independent Counsel's (IC) purpose was "to ensure a fair, objective and impartial investigation" and to "review all Albuquerque Police Department Internal Affairs section investigations for the purpose of making recommendations to the Chief of Police as to whether disciplinary action should be taken." The IC had the authority to conduct an independent investigation with hired outside investigators.

The IC also had a policy review function in which it could recommend policies related to the complaint process and general police practices. The Walker-Luna study found that the IC directed the complaint investigation process and added an element of professional citizen oversight to the process, but it was not fully utilizing its authority to review policies and procedures of the APD. There were questions about the quality of complaint investigations for which the IC and Internal Affairs shared some responsibility. The IC played no public role, and this lack of visibility undermined the positive accomplishments related to oversight of the APD.

The report found the Public Safety Advisory Board (PSAB) was not being directly involved in the complaint process, but rather only provided citizen oversight of general policies and procedures. Its 11 members were appointed by the mayor with advice and consent from the city council. The PSAB was authorized “to conduct studies, receive information, and make recommendations” regarding “policies, practices, and procedures” of the police, fire, and corrections and detention departments and was designed to be proactive rather than just reactive.

The study found the PSAB generally failed in its mission to provide oversight of the APD. The board had hardly used any of its powers and was universally criticized by community groups and leaders of the police department for not giving citizens a platform to address their complaints. The Walker-Luna report recommended the IC report to the PSAB and the PSAB provide input into activities of the IC. The report concluded that PSAB needed restructuring and formal reporting structure with the IC.

Others dealing with police oversight

At the time of the Walker-Luna report, the city attorney advised APD on legal matters and defended the city in lawsuits involving actions by APD officers. The city’s Risk Management Office oversaw claims against the city arising from lawsuits or other liabilities. Tort claims were of concern because Albuquerque was consistently paying out a lot of money for tort claims against the city. The Walker-Luna report claimed the city was too quick to settle claims involving police misconduct and provided no feedback to APD leadership. The mayor and city council had substantial oversight of the APD, the IC and the PSAB because they had ultimate authority over the budgets and the mayor appointed the members of the PSAB. The report noted that at that time the city council showed little interest or knowledge of the problems in the police department, while the mayor had an overly optimistic view of the situation.

The Walker-Luna report included many recommendations to improve the overall police oversight process. Several of them are listed below.

- The independent counsel should make more use of its authority to oversee the APD and should be a more active participant in investigations and be present at interviews as well as conduct investigations.
- The independent counsel should play an active public role in the community.
- The position of independent counsel should be filled through competitive bid, which would facilitate hiring decisions based on comparative competency and the presentation of innovative ideas about how the IC should function.
- The Public Safety Advisory Board should make full use of its authority to conduct studies and make recommendations and participate in long-term planning in order to identify major problems.
- The PSAB should oversee the activities of the IC, giving the PSAB a clearer focus and help elevate the low visibility of the IC.
- The Internal Affairs section of the APD should begin an active outreach program to publicize the complaint process, including outreach presentations to the community and distribution of the APD brochure.
- Internal Affairs should reorganize its citizen police complaint (CPC) filing system and include face sheets, an early warning system, and a formal process for requests to waive time deadlines.
- The City Attorney and Risk Management Office should reduce tort claim payments and provide more feedback to APD.
- Steps should include a policy on settling tort claims against the city that addresses the underlying behavior of APD officers, the establishment of specific goals and timetables for reducing tort claims based on payments from comparable cities, and a formal system of feedback to APD officers regarding problems that might require additional training.
- The city council and the mayor should take a more active role in overseeing the APD.
- All public officials need to work closely with mental health professionals to examine both the range of services for the mentally ill and APD policies for handling mentally ill persons.

In July 1997, the city council held town hall meetings on the Walker-Luna report and committed to evaluate the report's recommendations and revise the oversight system. In November 1997, a Task Force on Police Oversight began meeting to review and analyze the report and consider overhauling the existing oversight system. The task force completed its report in May 1998 and made the following recommendations:

- Accept citizens complaints at police and non-police sites;
- Monitor and track all citizen complaints;
- Improve analysis of complaints and the timeliness of investigations;
- Implement an early warning system;
- Establish a civilian board or commission for oversight of police matters only;
- Include an active program of community outreach by the oversight body; and
- Provide full-time staff and adequate funding to ensure civilian oversight of the APD.

The task force discussed five different civilian oversight models and ranked them, but did not recommend any of the models. (More on the five models is included in Appendix A of this report.) The Albuquerque Citizens on Police Accountability recommended a model that included a commission or board with the ability to conduct independent investigations leaving discipline to the Chief of Police. The task force also made ten recommendations on the oversight system.

Based on a system that included a police oversight board or commission, it recommended:

- Members of an oversight board or commission be appointed by the mayor after being recommended by the city council and with advise and consent of the city council or appointed by the city council without mayoral involvement;
- Provide mediation as an alternative to investigations;
- Hold public hearings after all fatal incidents involving police;
- Re-examine oversight commission after 18-months;
- Citizens should have appeal right that include cross-examination of police officers;
- Selected the Independent Counsel by competitive bid and there should not be an attorney client privilege between the IC and the city;
- Investigate and respond to citizens upon receipt of a petition of 75 residents on issues raised in a petition;
- Increase public disclosure on investigations and discipline imposed on officers; and
- Televise commission meetings.

The POC is created

After culling through the recommendations made in the Walker-Luna report and those made by the Task Force on Police Oversight and the Albuquerque Citizens on Police Accountability, the city took action. In 1998, the city council overhauled the oversight system by passing the Police Oversight Ordinance (the ordinance). The ordinance included many but not all of the aforementioned recommendations. The ordinance created the Albuquerque Police Oversight Commission (POC) to provide civilian oversight of the APD and to oversee all citizen complaints of the police department. The POC was established to promote a spirit of accountability and communication between the citizens and the APD while improving community relations and enhancing public confidence. Powers and duties of the POC are established in Section 9-4-1-5 of the ordinance and include: to oversee the full investigation and/or mediation of all citizen complaints; to audit and monitor all investigations and police shootings under investigation by APD's Internal Affairs (IA); to submit all findings to the Chief of Police, who has final disciplinary authority; to conduct regularly scheduled televised public meetings with a prepared agenda and to begin each meeting with public comment; and to engage in a long-term planning process for the purpose of identifying major problems and establishing a program of policy suggestions and studies each year.

The ordinance established an Independent Review Office to be directed by an Independent Review Officer (IRO). The Independent Review Office is to receive all citizen complaints and claims directed against the APD and its officers. The IRO is to review the citizen complaints and assign them for investigation to either the APD for internal investigations or to an independent investigator; the IRO is to oversee, monitor and review all investigations and make findings for each; all findings are to be forwarded to the POC, which reviews the investigative work of the IRO and submits all findings to the Chief of Police, who has final disciplinary authority.

In addition, the IRO is to monitor all claims of excessive force and police shootings and be an ex-officio member of the Claims Review Board, which is panel of city officials established to review lawsuits against the city and make recommendations to the city council on claims presented. The IRO is to maintain and compile all information necessary for the POC to prepare its quarterly report. The position of Independent Review Officer is required to be filled by a person with a law degree and five years of experience in criminal investigations. The IRO reports directly to the POC and acts as lead investigator and manager of the office.

The ordinance requires the IRO to submit findings and prepare a public record letter to the POC for review and approval. The public record letter is sent to the complainant upon POC approval. The ordinance provides a process to be followed when the IRO and the Chief of Police disagree on findings. When this occurs they treat the complaint as a “non-concurrence” issue and conduct a hearing. When there is still disagreement after the POC hearing, the city’s Chief Administrative Officer (CAO) is to review the investigation and render a final decision. Findings of the POC/IRO are placed with the chief’s findings on the Internal Affairs disciplinary status sheet and are to be filed in a Citizen Police Complaint file and the police officer’s retention file. The Chief of Police may take whatever action is necessary including disciplinary action to complete disposition of the compliant.

If a complainant is not satisfied with the findings of the IRO, he or she may appeal the decision to the POC within ten business days of the receipt of the public record letter. The POC upon appeal may modify or change the findings and/or recommendations of the IRO and may make further recommendations to the Chief of Police regarding the findings, recommendations or discipline imposed or proposed by the chief. In addition, a complainant who is not satisfied with the final decision of the Chief of Police on any matter related to the complaint may request the CAO review the complaint, the findings of the IRO and the POC, and the actions of the Chief of Police. The CAO upon completion of the review shall take any action necessary including

overriding the decision of the chief regarding disciplinary actions to complete the final disposition of the complaint.

The POC is required to prepare quarterly reports that contain information on the number, kind, and status of all complaints received including those sent to mediation; discussions on issues of interest undertaken by the POC; POC findings and Chief of Police's issuance of discipline on those findings; ongoing police department disciplinary trends; information on public outreach initiatives undertaken by the IRO or the POC; and the status of the long-term planning process identifying major problems and policy suggestions.

Passage of this ordinance was a tremendous stride for the city in improving police accountability and communications. To help ensure the ordinance was accomplishing what it was intended to, the ordinance as passed in 1998 required a complete evaluation and analysis of the oversight process after the ordinance was in effect for 18 months. To fulfill that requirement, a study was undertaken in 2002 by another leading expert in police accountability, Richard Jerome of the Police Assessment Resource Center (PARC). Again, the City of Albuquerque is commended for hiring a leading expert who provided a detailed and objective account of the system as it stood in 2002.

2002 Report

In the 2002 report, also known as the "Jerome Report", Mr. Jerome noted that after the Walker-Luna study the city council established a Public Safety Committee, which set up the citizens' Task Force on Police Oversight, leading to the Police Oversight Ordinance that established the POC and the IRO. By the time of the Jerome Report, police oversight had three components, or "players" as Jerome established in his report. The first of the three major components of police oversight in Albuquerque was the APD's Internal Affairs section (IA), which *investigated* citizen complaints (Citizens Police Complaints or CPCs) against officers and

allegations of misconduct initiated by other APD officers and supervisors. IA handled approximately 350-400 investigations per year at the time of the Jerome Report.

The second major player was the IRO, who acted as an auditor and independent investigator of allegations of police misconduct. The IRO *reviewed* all CPC investigations conducted by the APD as well as IA investigations of shootings and other uses of deadly force. The IRO conducted some investigations of CPCs using investigators from his office or outside investigators. In those cases, the IRO's findings were sent to IA for its concurrence or non-concurrence.

The third player was the Police Oversight Committee (POC), which had seven volunteer commissioners. They heard appeals of CPC decisions where the complainant was not satisfied with the findings of the Chief of Police or the IRO. They also invited public comment at monthly meetings, and reviewed APD policies and practices and recommended improvements as established in the ordinance.

Jerome's report concluded that the oversight system had "enhanced the quality of internal police investigation" and had partially achieved the goals that had been established, but there was substantial room for improvement. He implored, and successfully so, the city not to abandon what it had started. Some of the significant findings and recommendations are provided below. (The entire list of his recommendations and the current status of those recommendations are included in Appendix B.)

Citizen Complaint Process

Regarding the complaint form and process, Mr. Jerome suggested that changes be made to the complaint form by adding more specific questions about the location of the incident, the identification of the officer(s) involved, injuries and about how and by whom the complaint had been received. He went on to recommend the complaint form be available on the APD's web site and there be links between the IRO and the APD web sites. He recommended that the IRO

conduct a survey to determine if forms and assistance should be available in other languages and that the IRO examine whether there were additional locations where the form should be available.

The ordinance requires citizen complaints to be filed within 90 days of the incident. Mr. Jerome recommended the time limit be extended, although he did not suggest a more appropriate length of time. Internal investigations by IA have no similar time constraint.

One component of the complaint process he considered very important involved informal complaints and informal resolutions. For a complaint to be investigated as a CPC, it had to be in writing, otherwise it was treated as an informal “verbal” complaint. These, however, were then and still are rarely, if ever, documented or investigated. Jerome recommended that the APD document all informal resolutions of complaints in the field. The IA and the IRO should be notified of the complaint and of the resolution, so they can be sure that serious complaints are appropriately handled. The APD and the IRO should review this process and depending on the results, should consider eliminating the distinction between formal and informal complaints. He went on to suggest the person fielding the complainant’s telephone call should complete the written complaint form, which should then be treated as any other complaint and investigated as appropriate. He also suggested the APD install a confidential hotline for complainants to call.

The Police Oversight Ordinance permits the use of mediation to resolve complaints, but this was rarely used then as a tool to resolve complaints. Mr. Jerome recommended the IRO use mediation to a greater extent and set up a system whereby the success of mediators can be evaluated and tracked.

Major Players

The IRO

The ordinance created the Independent Review Office and the position of Independent Review Officer (IRO). The Jerome Report made a dozen recommendations about the IRO. The more significant among them being that the IRO should have a term of at least two years and the

term be extendable by the mayor upon recommendation by the POC; the IRO should place more focus on whether there are tactical concerns related to police shootings rather than focusing on whether a shooting was legally justified; and when the IRO recommends policy changes as a result of CPC reviews, they should be documented in a separate file, and APD's responses should be tracked. A discussion of these files should be included in presentations made during regular POC meetings.

Jerome thought the IRO review of CPC files had several positive results: it is a double check on IA investigations. As a result of the IRO review, the IA investigations had become more careful and compete. By conducting its own reviews, the IRO added to citizen confidence in the oversight system and provided a measure against which IA investigations could be held. The IRO had identified policy and training issues of concern for the APD from its review of CPCs. However, Jerome pointed out that the IRO, like the former IC, had made only limited use of their policy review function. He suggested the IRO develop plans for more systematically addressing and identifying APD policy issues.

The POC

The major concerns expressed by Mr. Jerome regarding the POC involved three main issue areas: training, appeals hearings, and policy analysis. He thought members would benefit from additional training and an orientation for new members, which went beyond the required four hours of training per year on civil rights. He felt strongly that members also would benefit from participating in "ride-alongs" with APD officers.

In an effort to promote public awareness and in accordance to the police oversight ordinance, appeals hearings were (as they are today) open to the public and broadcast live on public access TV. Jerome had concerns about that policy and recommended the appeals hearing portion of the POC meeting not be televised and only the results be reported on television. He

believed this policy discouraged officers from appearing at POC appeals hearings and reduced the effectiveness of the entire process.

Each POC meeting opened (and still does) with a public comment period. Comments were initially limited to two minutes but the POC abandoned that limitation after opinions were voiced by persons who wished for longer periods to comment. Jerome recommended the POC chairperson have greater discretion to limit comments to those related to the APD and the POC and to limit public comments to a reasonable time.

Mr. Jerome recommended the POC increase its emphasis on policy evaluation, analysis of police training, and patterns or trends in complaints or use of force. He went on say that there is disagreement over the role the POC should play and there is a clear gap between the perceptions of the POC's role and its actual activities.

The APD

After a shooting investigation is complete it is referred to the District Attorney's Office (DA). The APD also convenes a Shooting Investigation Review Team (SIRT) to examine the incident from a policy, tactics and training perspective. Mr. Jerome recommended limiting the IRO and POC roles in shooting investigations to reviewing investigations rather than conducting investigations because the APD has the capabilities and expertise to conduct shooting investigations while the others do not. The IRO would review and provide conclusions to the POC as required in the ordinance. Also, the IRO should review SIRT reports and report to the POC on the findings and recommendations. The Jerome Report cited a concern about the thoroughness of IA investigations.

The report pointed out that the police department had made significant strides in identifying and tracking potential problem officers. It had a "functioning, but rudimentary early warning system" that included the use of a part-time volunteer who created a Microsoft Access-

based tracking system and was entering data. He pointed out additional concerns about the reporting of use of force and the lack of analysis of use of force data.

The Jerome Report stated that city's Risk Management Office and the City Attorney were responding to recommendations made in the Walker-Luna report by taking a more active role in monitoring patterns of police misconduct alleged in tort claims and lawsuits and by providing feedback to the APD regarding certain police behaviors. There was a risk management officer assigned to the APD who implemented a system to notify an officer's chain of command of all tort claims filed against an officer and was to prepare quarterly and annual reports containing aggregate data and analysis of tort claims against APD officers. However, the reports were not made available to Jerome or others. The report recommended that the Risk Management Office reports be made available to the IRO and POC.

The report also recommended that APD establish a liaison with the DA's office and the courts to track criminal cases that are dropped due to bad reports, misconduct, or illegal searches and that the APD track resisting arrest and assault on police officer charges to ensure that the use of force involved in such incidents are appropriately reported and investigated.

The Jerome Report concluded that although there had been some problems with the implementation of the ordinance, the "promise of effective oversight is still there." He was concerned that the IRO and the POC had "not reached their full potential." Nevertheless, he believed it was in the city's best interest to maintain the general structure the ordinance created and focus on improving practices and procedures of the IRO and the POC to make them more effective organizations.

This Report's Structure

This report is organized into ten chapters. This first chapter covers the introduction, the study's background, and a brief history of police oversight in Albuquerque. Chapter 2 describes the approach and methodology for this project. Chapter 3 provides some general information on

civilian oversight of police agencies. Chapter 4 captures the findings and recommendations of the consultant team related to the overall police oversight process in Albuquerque. Chapters 5, 6 and 7 present the findings and recommendations related to the Police Oversight Commission, the Independent Review Officer and the police department's Internal Affairs section, respectively. Chapter 8 includes additional findings and recommendations that are related to other accountability measures in place in Albuquerque. Chapter 9 presents findings and recommendations related to the investigations of police officer involved shootings. Chapter 10 contains overall conclusions of the consultant team.

Also, there are three appendices following Chapter 10. Appendix A is a table of civilian oversight models from across the country. Appendix B is a table of the recommendations made in the Jerome Report and the status of those recommendations. Appendix C is a table of all recommendations contained in this report.

Acknowledgments

The consultant team thanks the City of Albuquerque for the opportunity to conduct this study. The team thanks specifically those who agreed to be interviewed or participate in focus groups including: the Mayor, City Councilors, the Chief Administrative Officer, the Chief of Police, city and police department staff, Police Oversight Commissioners, the Independent Review Officer and his staff, and other city and county departments including Risk Management, the City Attorney, and the District Attorney for their assistance in providing information. In particular, the team thanks the city's project manager, Mr. Michael McCan, who represented the city well and who was the city's primary point-of-contact for the consultant team. We also want to thank the project liaison for the study, Mr. Jay Rowland. The successful completion of this study could not have been done without the assistance of Mr. McCan and Mr. Rowland.

2-Project Approach and Methodology

2 PROJECT APPROACH AND METHODOLOGY

MGT of America, Inc., a multi-disciplinary consulting firm specializing in public sector management, planning, and organizational studies for a variety of state and local government agencies, was selected to conduct the “Evaluation and Analysis of the Police Oversight Ordinance and Police Oversight System” for the City of Albuquerque. The primary MGT staff assigned to this project were Mr. Bob Lauder, Ms. Natacha Peláez-Wagner, and Ms. Lisa Wilson. Two independent subcontractors also played significant roles on this project. They were Chief Bob Stewart and Dr. Ron Glensor. The consultant team members are very experienced in law enforcement operations and conducting numerous reviews of policing agencies.

Project Approach

MGT developed a detailed work plan for the study. Work tasks were developed to both guide and direct the review.

In mid-January and again in mid-February 2006, the consultant team spent a week on-site collecting information and conducting interviews with stakeholders.

MGT’s approach was to obtain input from as many stakeholders in the police oversight process as possible. Team members interviewed city officials including the Mayor, the Chief Administrative Officer, City Council members, and city staff from the Risk Management Office, Human Rights Office, and City Attorney’s Office. From the APD, team members interviewed the Chief of Police, and deputy chiefs, and the Internal Affairs Lieutenant. MGT conducted focus groups with a group of supervisory officers and two groups of front-line officers. And the team interviewed the president of the police union, all but one member of the Police Oversight Commission, the Independent Review Officer (IRO), IRO investigators, and administrative staff.

The team also interviewed representatives of the Human Right Coalition, the Homeless Advocacy Coalition, the ACLU, Vincenos, and the NAACP.

To gain a thorough understanding of the oversight process in Albuquerque, the team reviewed policies and procedures, dozens of documents, reports, summaries, and investigations including the following:

- The APD's Standard Operating Procedures (SOPs), Administrative Orders, Procedural Orders, and General Orders;
- Quarterly and annual reports prepared by the POC;
- Internal Affairs Quarterly Reports;
- The 1997 Walker-Luna Report;
- The 2002 Jerome Report;
- Information provided by the National Association for Civilian Oversight of Law Enforcement – NACOLE;
- Complaint forms and letters sent by the IRO to complainants;
- The IRO's database of complaints; and
- The "Agreement between the City of Albuquerque and the Albuquerque Police Officers Association."

MGT examined the APD Early Warning System (EWS) and procedures and protocols of the IA and IRO for their investigations, along with procedures related to police shooting investigations.

The team attended two POC meetings to observe the appeals process and the reporting process used by the IRO for securing the approval of his investigations from the POC, and letters sent to complaints.

The team evaluated the POC/IRO's public outreach activities including its website and reviewed both the English and Spanish versions of the complaint form and distribution procedure. As the consultant team began to formulate its findings and draft recommendations, additional requests for information were made.

3-Background of Police Oversight

3 BACKGROUND OF POLICE OVERSIGHT

Background

The concept of civilian oversight of police began back in the 1960s as the concern over abuse of civil rights and violations of civil liberties by police reached critical levels as civil rights demonstrations and riots spread across the country. At first, “it was dismissed as radical and dangerous by virtually everyone outside the civil rights communities,” but by the beginning of the 21st Century more than 80 percent of the largest cities had some form of civilian oversight.¹

Holding law enforcement agencies and officers accountable for their actions was previously only an internal police function. Under civilian oversight, there is more of a division of responsibility as many investigations are still and should still be conducted by the police department itself. Those investigations are conducted by police because there are criminal charges involved or, as in the case of shootings, the law enforcement agency is better equipped and trained to conduct such investigations.

There are essentially four purposes for police oversight:

1. Holding officers accountable for misconduct;
2. Keeping a record, recognizing complaints as vital sources of information about a department;
3. Identifying patterns and problems related to policies and supervision rather than misconduct; and
4. Building public trust and community cohesion through patient listening to all complaint parties and letting them know they have been heard.²

¹ Samuel Walker, *Police Accountability: The Role of Citizen Oversight* 2001, p. 6.

² Ms. Debra Livingston, Professor of Law, Columbia University, comments made at the Eight Annual Conference of NACOLE, Cambridge, Massachusetts.

Most civilian oversight agencies operate by receiving complaints against the police from the public and responding to them after conducting investigations when possible. This system is designed not only to hold individual officers accountable for their actions or law enforcement agencies accountable for poor policies and procedures, but by analyzing trends and data in the aggregate it can lead to broader policy changes. Another approach involves only working with police agencies to resolve systemic problems related to organizational management, supervision, procedures, and policies by analyzing trends and other information and letting IA conduct investigations.

There is not a lot of in-depth research on the activities and effectiveness of civilian oversight, but there is much information on what communities around the country are doing and why each of them thinks civilian oversight is important for improving relationships between the community and the police, while protecting fundamental human rights of those who come in contact with police. In a 2002 paper by the Vera Institute of Justice, “Building Public Confidence in Police Through Civilian Oversight” by Emma Phillips and Jennifer Trone, they concluded:

Civilian oversight can never substitute for good police leadership or displace internal methods of fostering accountability and responsibility. By exposing police practice, pointing out the shortcomings in how police regulate themselves, reporting honestly on the depth and pace of police reform, and engaging the public and the police in a dialogue, however, civilian oversight is a vital part of democratic policing.³

Although most of the civilian oversight agencies vary somewhat from city to city, there are basically three types of civilian involvement in the review of police. According to Samuel Walker the three basic types are:

1. Civilians outside of the police *conduct investigations* of citizen complaints;
2. Civilians are empowered only to *review* how the police department itself has adjudicated individual citizen complaints without access to internal police documents or the investigatory file; and

³ Emma Phillips and Jennifer Trone, “Building Public Confidence in Police Through Civilian Oversight”, Vera Institute of Justice, September 2002, p. 12.

3. Civilians *audit, investigate, monitor* and report on the competence and effectiveness of the police managing misconduct *as a whole but do not review or investigate individual complaints.*⁴

Mr. Walker goes further by dividing the three basic types in to five basic models of police oversight.

Models of Police Oversight

In Model I, individual complaints are received and investigated by persons who are not sworn police officers, making it the most independent form of police oversight. In Model IA, investigative reports are reviewed by a board that votes on the merits of the case and sends a recommendation to the police chief. Model IB involves a separate municipal agency with a single director who reviews the reports and forwards a recommendation on to the police chief.

These approaches are genuinely independent of the police department. With an independent board's input, diverse elements from the community can be involved. Complaints can be resented by police officers and may cause morale problems and so this model requires a high quality staff and well-defined procedures to work properly.

In Model II, citizen complaints are investigated by sworn police officers assigned to the department's IA unit or office of professional standards. Reports are forwarded to a citizen oversight entity, which reviews them and determines the merits and forwards a recommendation to the police chief executive. Some oversight entities consist of a board while others are just an individual. This model provides more oversight than a completely internal form of review (due to limited citizen input). However, it is less independent than Model I type of oversight. Frequently, this model promises independence that it often cannot deliver and, therefore, may not fully resolve community concerns about the complaint process. That is not true in Albuquerque, where

⁴ Samuel Walker, "Varieties of Citizens Review: The Implications of Organizational Features of Complaint Review Procedures for Accountability of the police." *American Journal of Police*, Vol. XV, No. 3, 1996, pp. 72-73.

the study team found this model to be truly independent and effective for dealing with the majority of most complaints to the satisfaction of citizens.

Model III is a form of appellate review of citizen complaints. Complaints are received, investigated, and disposed of by the police department. If the complainant is not satisfied with the final decision by the police chief, then he or she may appeal that decision to a citizen oversight entity. In this system, input by civilians occurs after the initial disposition by the police department. This system provides a limited degree of citizen oversight, offering a form of appellate review for complainants. However, it is far less independent than Models I or II, and so it delivers far less in the way of oversight than it appears to promise.

Model IV is an “auditor” approach. Individual citizen complaints are received, investigated and disposed of by the police department. An auditor conducts regular audits of department complaint processes and makes public reports. This system can monitor the internal affairs unit of the police department and recommend improvements. Some community leaders may perceive these audits as not fully independent from the department.⁵

Appendix A provides information on the types of models used by cities across the country. Most cities’ oversight systems vary somewhat from the “models”, and Albuquerque is not an exception. For example, Albuquerque’s current oversight system has features of Models I and II. Its system provides for citizen complaints to be investigated by either internal or external investigators. In either case, both are sent to a board for approval and the board sends recommendations to the chief.

⁵ Walker, Samuel, Geoffrey P. Alpert, and Dennis J. Kenney. "Early Warning Systems: Responding to the Problem Police Officer." National Institute of Justice: Research in Brief. August 2000.

***4-Findings and Recommendations for
Police Oversight Process***

4 FINDINGS AND RECOMMENDATIONS FOR THE POLICE OVERSIGHT PROCESS

This section of the report presents the results of MGT’s evaluation and analysis of the City of Albuquerque’s police oversight system and process.

The police oversight process begins with a citizen’s complaint. Complaint forms are available at numerous sites throughout the city and on the IRO’s website at www.cabq.gov/iro. When a written complaint about an APD officer or the department is received by the IRO, it is entered into the IRO’s case management database, a case number is assigned, and the case is reviewed by the IRO to determine if it meets the timely filing requirement and the criteria for mediation. If timely filed and the parties are unwilling to mediate, the case is assigned for investigation. The IRO will assign the complaint to one of the two Independent Review Office investigators or to APD’s Internal Affairs Section (IA) for investigation.

Upon completion of the investigation, the IRO reviews the investigation report for thoroughness, impartiality and fairness, and decides what APD Standard Operating Procedure(s) (SOP) alleged to have been violated and makes a “Finding” based on the preponderance of the evidence contained in the investigation. The complaint may have one or more possible outcomes. The types of possible complaint outcomes are:

Sustained:	The allegation is supported by sufficient proof.
Not Sustained:	The evidence is not sufficient to prove or disprove the allegation.
Unfounded:	The allegation is false or otherwise not based on valid facts.
Exonerated:	The incident that occurred or was complained about was lawful and proper.
Inactivated:	The investigation was inactivated by either the citizen or by internal review. The complaint was determined to not merit further investigation, there was no alleged violation of an SOP, submitted more than 90 days from the date of the incident, was not against APD member(s), the APD member cannot be identified or the case was successfully mediated.

The IRO's findings are finalized by the POC and sent to the complainant and the Chief of Police, who has sole disciplinary authority over the APD officer. The IRO notifies the complainant with a public record letter by certified mail.

If the complainant is dissatisfied with the findings, he or she may appeal that decision to the POC. Appeals must be made within ten business days of receipt of the public record letter. Appeals are heard at the regularly scheduled monthly televised public meeting of the POC. The POC may uphold or modify the recommendations of the IRO and may make additional recommendations to the Chief of Police regarding discipline. A citizen still dissatisfied with the action of the POC or the Chief of Police may request a review the city's Chief Administrative Officer (CAO). The POC may also appeal the Chief of Police's decisions to the CAO.

The IRO's summary of the investigation, the findings, and a draft of the public letter of record are provided to POC commissioners prior to the commission's monthly meeting for their review. This is generally provided two weeks before the scheduled meeting to provide adequate time for commissioners to review the material so they are prepared to rule on IRO recommendations or, in a case where the Chief of Police and the IRO disagree on the findings, to conduct a hearing and make findings on the case.

COMMENDATION

All commissioners interviewed agreed the information provided to them by the IRO was timely and sufficient for their decision-making needs.

FINDING

The public letter record sent to a compliant advising he or she of the findings and resolution of their complaint contains the technical/legal terms without any explanation of the meaning of the terms. Terms such as exonerated or not-sustained are somewhat technical and deserve further explanation so the complainant completely understands the outcome of his or her complaint.

RECOMMENDATION 4-1:

Develop a brochure to include with the public letter record that defines in plain language the terms used to explain the outcome of the investigation of the CPC to the complainant.

Also, the appeals process should be explained in the brochure and any additional information about the process, the POC, the IRO, IA, and the CAO. The brochure should be two sided with English on one side and Spanish on the other.

FINDING

In 2005, 52 CPCs were sustained. As shown in exhibit 4-1, the percent of sustained cases has changed very little over the past four years. What has changed rather dramatically is the rate of discipline on the sustained cases. This trend indicates that the APD is taking the citizen complaint process seriously and the Chief of Police is taking action for violations of department SOPs.

**EXHIBIT 4-1
CITIZEN COMPLAINTS FILED AND SUSTAINED
2001-2005**

	Complaints Filed	Complaints Sustained	Sustained as a Percent of Complaints Filed	APD Discipline Rate on Sustained
2001	186	53	29%	60%
2002	198	39	20%	58%
2003	220	49	22%	87%
2004	307	62	20%	98%
2005	351	68	19%	98%

FINDING

As established in the ordinance, citizen complaints about police may be resolved through mediation. This policy is included in the newly adopted rules and regulations as a way to resolve complaints. The use of mediation in the police oversight process in Albuquerque increased significantly in 2005. According to the 2004 POC Annual Report, there was only one complaint that was successfully mediated. In 2005, 34 complaints were resolved by mediation. According

to the IRO, this significant increase over prior years is due in large part to the new Chief of Police encouraging participation. The chief established a pilot mediation program and sent selected lieutenants and sergeants to mediation training. To be eligible for mediation a complaint must not involve use of force or a criminal charge.

Mediation is the informal resolution of a dispute or complaint through face-to-face interaction between parties where a professional mediator typically is a neutral facilitator there to help the parties reach resolution. The mediation process is voluntary and emphasizes dialog in a safe environment where participants can air their views and develop a mutual understanding of their conflict. The mediation process in Albuquerque uses mediators that are police officers, rather than an independent neutral party.

The goals of mediation are consistent with the goals of community policing. They both emphasize the values of cooperation and collaboration, the goals of learning and understanding and the process of problem solving. Therefore, mediation can help to strengthen these values. Problem solving is addressed in that the officer sits down with the complainant, discusses events that led to the complaint and works out an acceptable understanding. (Often times this is no more than an apology.)

Albuquerque's success in recent years with the use of mediation to resolve CPCs is different than what is generally found across the country. A national survey administered in 1999 identified 16 citizen complaint resolution mediation programs with only 14 that were operational. Of these programs, the activity level was extremely low and only three or four had successfully mediated a substantial number of cases. These programs were operated by citizen oversight agencies, community mediation centers or police departments.

COMMENDATION

The increased use of mediation as a way to resolve police complaints in Albuquerque is commendable.

A successful mediation program is a result of supportive communities and police departments who are willing to participate in mediation. Throughout the country, there are common factors cited that contribute to the failure of mediation programs. One of the most frequently cited issues is opposition from police officers and their unions. Officers may oppose mediation for fear that any admission may be used against them in a formal proceeding. There also may be a lack of understanding regarding mediation or a lack of resources to support the program. Mediation is less costly than investigations, especially in Albuquerque where there are no outside mediators used.

RECOMMENDATION 4-2:

Enhance outreach efforts to complainants and potential complainants to encourage the use of mediation.

Develop a brochure or other information to put on the IRO web site, to be included with citizen complaint forms and/or to be mailed to citizens upon receipt of a complaint. This information should explain how the mediation process works and why it may lead to more beneficial outcomes for all parties. By increasing the use of mediation, the number of complaints requiring investigation could be reduced, which could partially reduce the need for additional IRO investigators and reduce the need for Internal Affairs to handle cases.

RECOMMENDATION 4-3:

Include “successfully mediated” as a complaint disposition category.

Cases that are resolved by mediation are classified as inactivated. Complaints can be classified as inactivated cases for several reasons including: if an allegation is not a violation of SOP, is submitted more than 90 days from the date of the incident, is not against an APD member, or the APD member cannot be identified or the complaint was successfully mediated. Categorizing mediation cases as inactivated fails to give credit to the mediation process. It is an outcome that merits its own category because it indicates resolution.

FINDING

While the increase in the use of mediation is commendable, mediations could be increased and should be completed in less time. The Jerome Report recommended the IRO use mediation to a greater extent. Since that report, five APD officers received training and are certified by the State of New Mexico as mediators. These officers handle mediations referred to them by the IRO. The Chief of Police is to be commended for allowing these officers to use on-duty time as appointed mediators to maintain their state certification. The IRO supports the increased use of mediation but believes that IA takes too long to complete the process. The IRO in his 2005 Annual Report to the POC referred to mediation as a pilot project that will be evaluated in 2006 to determine whether it should be permanent.

RECOMMENDATIONS 4-4:

Develop a SOP in collaboration with IA that establishes a process and criteria for mediation.

While the number of mediations conducted annually has increased, it is still low. They should increase as the program becomes policy and is better known by officers and complainants. The IRO and POC should not hasten to make a decision about the future of mediation.

FINDING

The citizen's complaint form could be improved with some changes in its format. The IRO is commended for changing the CPC format as recommended in the Jerome Report. The revised form asks the complainant to include information about the exact location of the incident, identification or description of the involved officer(s), and alleged injuries. A review of CPCs revealed that this information is often spread throughout the report requiring an investigator to search for it. When the information is not documented, investigators must take the time to research the information through APD records or with the complainant. A simple change in format will help ensure the information requested is readily available in the report.

RECOMMENDATION 4-5:

Change the CPC form to include more “forced blocks” to provide additional detailed information about the location, officers, and injuries involved in the alleged conflict.

A simple change in format would help ensure that more information is included in the report and readily available for investigators. It is recommended that “witness” information is also added. This information should be included in a simple, easy to read format on the front page of the CPC form. There are many good examples of citizen complaint forms at web sites of jurisdictions throughout the country.

FINDING

The current handling of unsigned complaints is not consistent with the spirit of the ordinance. Under the current policy only signed complaints are investigated. Although the IRO works diligently to get all complaints signed, even those that originally come via the website or from a telephone call, some citizens just won’t sign the form. The ordinance states written complaints will be received. It does not address whether or not they must be signed. The signature controversy shows up as a result of the agreement between the city and the Albuquerque Police Officers’ Association. In that document, official complaints are defined as “any complaint made by a citizen where the complaint provides his name, address and telephone number and the complainant has completed a signed statement.”¹ According to the agreement, only official complaints will be investigated by the APD. The agreement does not make any statement about the IRO’s and the POC’s investigative prerogatives. Even the APD is not prohibited from conducting a preliminary investigation to determine if allegations in unofficial complaints are in fact true.²

¹ Agreement Between The City of Albuquerque and the Albuquerque Police Officers’ Association, Sections 23. C.1.

² Agreement Between The City of Albuquerque and the Albuquerque Police Officers’ Association, Sections 23. C.2.

RECOMMENDATION 4-6:

The IRO should not dismiss (inactivate) unsigned complaints and at a minimum should conduct a preliminary investigation if the allegations are serious and the facts can be established.

Complaints received via the website or via telephone calls can be transcribed into a written complaint, and should be investigated at least preliminarily, even if unsigned. Mr. Jerome made a similar recommendation in his report.

FINDING

Albuquerque's citizen police complaint process offers more opportunity for citizens to appeal than other oversight systems the consultant team reviewed. In Albuquerque, any person who files a citizen complaint and is dissatisfied with the findings of the IRO or of the Chief of Police response may appeal the decision to the POC within ten days of receipt of the public letter of record. The POC may modify or change the IRO's findings or make further recommendations to the Chief of Police regarding the findings or the discipline imposed. Additionally, any person who filed a citizen complaint who is not satisfied with the final decision by the Chief of Police may request that the Albuquerque Chief Administrative Officer (CAO) review the complaint, the findings of the IRO and POC, and the action of the Chief of Police. This second appeal in Albuquerque to the CAO, also due within ten days of receipt of the chief's letter, is unique among the cities the consultant team reviewed. Appendix C shows appeals processes for citizen complaints in several jurisdictions.

Historically, there have been few cases that are appealed to the POC and very few to the CAO. In 2005, only 40 cases were appealed to the POC and according to the IRO less than ten to the CAO.

RECOMMENDATION 4-7:

Extend the deadline for citizens to file appeals from ten business days to 30 calendar days.

The consultant team was unable to conclude whether the relatively small number of appeals and even fewer secondary appeals were the result of a good process where even citizens who may not have been completely satisfied with the results of their complaint felt they were heard and their claims were thoroughly and impartially investigated, or whether the deadlines for appeals were too short. Our review of other city appeals processes indicated times ranging from seven to 90 days, 30 days was the most frequent deadline allowed for appeals.

The consultant team is making no recommendation on whether to keep or abolish the secondary appeal process. It is not used extensively, but that may be due in part to the short deadline to file an appeal. Additionally, although not offered in most jurisdictions, the secondary appeal may be seen as a positive regarding how serious the City of Albuquerque is about its civilian police oversight system.

FINDING

The City of Albuquerque's police oversight process ensures police officers' constitutional rights against compulsory self-incrimination are protected.

There are three related sources limiting the type of information that can be submitted by the IRO to POC. The two obvious direct sources are the Police Oversight Ordinance, and the police union collective bargaining agreement. To understand the interplay between the Police Oversight Ordinance and the police union collective bargaining agreement (CBA), one must first understand the third and indirect source: a famous United States Supreme Court case, which according to the City Attorney's Office, the writers of both the Police Oversight Ordinance and the CBA had firmly in mind, but which is not explicitly referred to by either.

In *Garrity v. New Jersey*, 385 U.S. 493 (1967), the Supreme Court addressed how the Fifth Amendment's protections against compulsory self-incrimination apply in a law enforcement disciplinary setting. In *Garrity*, police officers were questioned during the course of a state investigation concerning alleged ticket fixing. (*Id.* at 494.) The officers were ordered to

respond to the investigator's questions, and were informed that a refusal to respond to the questions would result in their discharge from employment. (*Id.*) The officers answered the questions. Their answers were later used to convict them in criminal prosecutions. (*Id.* at 495.)

The Supreme Court ruled that the use of the officers' statements in criminal proceedings violated the Fifth Amendment's guarantee that citizens cannot be compelled to be witnesses against themselves. The Court held that "the choice imposed on [the officers] was one between self-incrimination or job forfeiture," a choice the Court termed "coercion." The Court held that "policemen, like teachers and lawyers, are not relegated to a watered-down version of constitutional rights," and ruled that statements which a law enforcement officer is compelled to make under threat of possible forfeiture of his or her job could not subsequently be used against the officer in a criminal prosecution.

When both the Police Oversight Ordinance and the police union collective bargaining agreement talk about "compelled statement(s)," this is what they are referring to—Garrity defined compelled statements.

§ 9-4-1-13 of the Police Oversight Ordinance states that compelled statements will not be made public, but the IRO may "summarize conclusions reached from a compelled statement," for the report to the POC and the Chief of Police. The next section, § 9-4-1-14, states that compelled statements are confidential and will not be forwarded to POC, but the IRO may "summarize conclusions reached from a compelled statement." It is clear that neither the compelled statement itself nor details from it may be mentioned.

Section 23 (J) of the Agreement Between the City of Albuquerque and Albuquerque Police Officers' Association (effective June 1, 2002 through June 1, 2003 and extended by agreement of the parties) states in full:

J. An officer must, as a condition of continuing employment, truthfully answer any and all questions relating to the matter under investigation whether the officer is a subject or a witness to the matter. The determination of whether a question is relevant to the matter under investigation shall be made solely by

the Internal Affairs officer conducting the investigation. All compelled statements will remain confidential and will only be used for the Independent Review Officer's investigation. Unless the City is ordered to release the documents pursuant to an order issued by a court of competent jurisdiction, the compelled statements will only be released to Internal Affairs, the Chief of Police, the City Attorney, the Independent Review Officer, the involved officer and his/her representative. Information from a compelled statement will not be made public by the city.

The Independent Review Officer may prepare an investigative summary of discipline administered by the department. The only information released to the Police Oversight Commission, will consist of the alleged charges, disposition of the case (i.e. findings of sustained/non-sustained), and any discipline imposed.

If a complainant appeals the discipline that has been issued to the target officer, the investigative file, minus the compelled statements, may be forwarded to the Police Oversight Commission for its review. If an appeal is taken, the IRO may provide a summary of conclusions to the POC. The summary would be in the IRO's own words and would be a synopsis of the investigation. The summary of conclusions may not contain any direct quotes, statements or actual language as contained within the compelled statement.

The city and all of its officials, employees and agents (including the IRO and the POC) are bound by the police collective bargaining agreement. The IRO is certainly within his/her authority to make recommendations to the POC or the city administration on any clause in the police collective bargaining agreement that may place obstacles or impediments on the effective exercise of his/her authority. These recommendations would then be available for consideration in negotiations of future police collective bargaining agreements.

COMMENDATION

Policies and procedures used by the City of Albuquerque in its police oversight process are consistent with the Garrity decision in both form and function.

***5-Findings and Recommendations-
the Police Oversight Commission***

5 FINDINGS AND RECOMMENDATIONS - THE POLICE OVERSIGHT COMMISSION

This section of the report presents the results of MGT's evaluation and analysis of the City of Albuquerque's police oversight system, the Police Oversight Ordinance and the Police Oversight Commission (POC).

Police Oversight Ordinance

The POC was created by the Albuquerque City Council in the Police Oversight Ordinance in 1998. The ordinance has been amended three times since its initial adoption, most recently in 2004. Although the city council felt strongly (and feels strongly today) that the city has a highly professional, well-trained police department, an effective oversight system had not evolved to the satisfaction of the community. The city council understood that a properly conceived and functional police oversight system was necessary to promote accountability of police professionals and to protect the rights of civilians.

The POC is composed of nine members who "broadly represent the diversity of this community."¹ To help ensure diversity, the commission is composed of one member from each city council district. Appointments to the board are by the mayor, who is supposed to appoint one of two nominees made by the City Councilor from the district.

There are six minimum qualifications to serve on the commission. The qualifications are:

1. Not have been employed by a law enforcement agency for one year prior to appointment;
2. Have problem-solving and conflict resolution skills;
3. Attend a yearly four-hour civil rights training session;
4. Be willing to commit the necessary time each month and read all materials distributed prior to the monthly meeting;
5. Participate in two "ride-alongs" with APD officers per year; and
6. Attend a yearly firearms training simulator at the APD academy.

¹ City of Albuquerque, Police Oversight Ordinance, Section 9-4-1-4.

The purpose of the commission is to promote accountability and communication between the citizens and the APD while improving community relations and enhancing public confidence.² To accomplish that mission it is to oversee the full investigation and/or mediation of all citizen complaints and audit and monitor all investigations and police shootings under investigation by IA. The POC does not investigate internal police complaints; that is the role of Internal Affairs (IA). Among its duties, the POC recommends candidates to the mayor for the position of IRO and reviews the work of the IRO with respect to quality, thoroughness and impartiality, and it submits quarterly and annual reports to the mayor and the city council. Once an investigation is complete, the POC submits the findings to the Chief of Police who has final disciplinary authority. Also, the POC holds appeals hearings for those complainants dissatisfied with the results of their complaint.

The POC is to engage in a long-term planning process through which it is to identify major issues or problems facing the community.

FINDING

According to POC members interviewed and the IRO, a POC member is appointed for a two-year term and may serve a second two-year term. The consultant team could find no such requirements in the Police Oversight Ordinance. According to the IRO, it was unintentionally omitted in a recent amendment to the ordinance.

RECOMMENDATION 5-1:

Amend the Police Oversight Ordinance to include any language that was unintentionally omitted during the amendment process.

RECOMMENDATION 5-2:

Remove term limits on POC members.

² City of Albuquerque, Police Oversight Ordinance 9-4-1-5

It takes six months to a year to feel comfortable with the oversight process and to understand the role of the POC and its members. By the time commissioners are getting comfortable with their oversight responsibilities and becoming productive members of the commission, their term is up. It is understood that serving on this commission is quite an investment in time and that serving much beyond six or eight years may be excessive, but certainly many members we spoke with were willing to stay longer than four years.

FINDING

Although the ordinance requires annual training, training is not tracked to ensure all requirements have been met on an annual basis. Ride-alongs and range simulation attendance is not tracked. The civil rights training is conducted at the POC meetings and is televised and recorded. Members have ample opportunities, including replays stored on the POC's website to make up the training if they are unable to attend the meetings where the civil rights training is conducted.

Many members voiced concerns about the lack of an orientation program for new members and the desire for more substantial training than is currently available. Members are appointed and expected to contribute immediately without understanding the ordinance, the process and the importance of their role, and how it impacts Albuquerque's citizens and police. Although many had attended a NACOLE conference, they felt more training could be done locally without adding substantially to the time demand.

RECOMMENDATION 5-3:

Create an orientation program for new members.

An orientation program will help ensure new members can become effective immediately and not feel uncomfortable for many months because they didn't quite know what was going on, what to expect, or what was expected of them. This would give them familiarity with their role,

the ordinance, the history and purpose of civilian oversight and the laws and rules governing police work and investigations.

RECOMMENDATION 5-4:

Monitor and track POC member attendance at all training and ride-along events to ensure compliance with the ordinance.

The IRO should develop and maintain a set of records to indicate all training sessions attended and develop a system to notify commissioners if they are deficient in meeting their annual training requirements.

FINDING

First passed in 1998 and having been amended three times since, the Police Oversight Ordinance established a framework for citizen oversight of the police department. It took until February 2006 for the commission to establish rules and regulations to provide more specific guidelines on how it is to be organized, how meetings are to be held, how committees are to function and to provide general operating procedures on the entire oversight process.

One of the most significant changes to the oversight process included in the newly adopted rules and regulations is subpoena power. Section 3 of the rules and regulations gives the commission the power to issue subpoenas. Even under the new provision, subpoenas may not be issued to APD officers to compel them to appear before the POC or any of its committees. This new power will provide the commission with the ability to see and hear more evidence including audio and video recordings, reports and statements.

This was one of the recommendations contained in the Jerome Report that was not included in earlier amendments to the ordinance. Jerome believed the POC needed to have access to complete IA/IRO investigative files, including APD officers, complainants, and witnesses' statements. He also recommended this power be limited by not including the ability to subpoena officers.

COMMENDATION

The adoption of rules and regulations, especially with subpoena powers, for the City of Albuquerque Police Oversight Commission by the city council is a major step in further solidifying the commission's and the IRO's roles and responsibilities in the community. The POC and the city council showed good judgment by not extending the subpoena power to force APD officers to appear at hearings or other meetings.

Atypical Complaints

Not all complaints should be treated the same. The APD and the POC recognize that some complaints need to be handled outside the standard process. For example, complaints against high ranking officers are now handled differently. This type of complaint is covered in Chapter 7 of this report. Other types of complaints that fall outside the normal treatment are complaints made by, or about, the IRO or POC members (commissioners).

COMMENDATION

The POC recently developed and the Albuquerque City Council approved a set of Rules and Regulations that addresses how complaints filed by POC commissioners and by the IRO are to be handled. In addition, the Rules and Regulations address how complaints about POC commissioners and complaints about the IRO are to be handled. Separate processes for these unique situations are essential and the processes developed and articulated in the Rules and Regulations are sound practices that should meet the needs of the APD, the IRO, the POC and complainants.

A review of citizen oversight processes across the county indicated jurisdictions' recognize that certain complaints should be handled differently to help ensure independence and fairness in the process.

FINDING

Sections 7, 8, and 9 of the POC Rules and Regulations, which specify processes to be used for complaints by or about the IRO or POC commissioners, do not address complaints involving IRO staff.

RECOMMENDATION 5-5:

Amend the Police Oversight Commission's Rules and Regulations to clarify if the references to the IRO in sections 8 and 9 include the IRO staff.

The commissioners should decide if they meant to include IRO staff in the reference to IRO, and make changes accordingly to help ensure clarity.

***6-Findings & Recommendations-
Independent Review***

6 FINDINGS AND RECOMMENDATIONS – CITY OF ALBUQUERQUE –INDEPENDENT REVIEW OFFICER

This section of the report presents the results of MGT's evaluation and analysis of the City of Albuquerque's Independent Review Office and the Independent Review Officer (IRO), who works at the direction of the Police Oversight Commission (POC).

Background

As established in the Police Oversight Ordinance, the IRO is a full-time city employee who works at the direction of the Police Oversight Commission (POC) and manages an office staff of two full-time investigators and one office assistant. The current IRO is an attorney retired from the Air Force where he gained considerable investigative experience as a staff judge advocate (attorney) and inspector general. He conducted a variety of personnel and fraud, waste and abuse investigations. Both investigators are experienced; one was an officer with the San Diego Police Department in California, and worked in patrol, internal affairs, investigations, and as a union representative, and the other was an investigator with the State of New Mexico Attorney General's Office.

The primary responsibilities of the IRO as noted in the POC's 2005 Annual Report include:

- The IRO receives all citizen complaints and claims directed against APD and any of its officers. The IRO will review the citizen complaints and assign them to be investigated by the IRO or police internal affairs (IA).
- The IRO will oversee, monitor and review all of those investigations and make a finding for each. These findings are forwarded to the POC for their approval.
- The IRO makes recommendations and gives advice regarding APD SOPs to the POC, city council, APD, and mayor.
- An impartial system of mediation may be used for certain complaints.
- Monitor all claims of excessive force and police shootings and be an ex-officio member of the Claims Review Board.

- Ensure all investigations are thorough, objective, fair, impartial and free from political influence.
- Maintain and compile information sufficient to satisfy the POC's quarterly reporting requirements.

It was clear from discussions with officers, supervisors, the Albuquerque Police Officers Association (APOA) president, IA commander, and POC members that the IRO and his investigators have earned a reputation for being competent in their work. This is important because it shows a significant change of attitude since the previous reviews of the POC process (see the summaries of Walker-Luna and Jerome reports in Chapter One of this report). These opinions may be largely attributed to the experience the present IRO and investigators bring to the position. Officers and supervisors were critical of the previous IRO's lack of investigative experience and the competence of private detectives hired to investigate CPCs.

FINDING

The IRO has experienced a significant rise in CPCs during the past four years resulting in an increase in cases referred to IA, and delays in the completion of cases by the IRO and IA. The POC sent a letter to the mayor in September 2005 requesting two additional investigators for the Independent Review Office. The IRO sent a follow-up request in October citing a significant increase and delay in the completion of cases handled by the IRO and IA. The letter also noted the Chief of Police's support of the recommendation. At this time, the IRO has not received a response to this request.

The IRO has a goal of completing 75 percent of complaints within 60 days and 100 percent within 90 days. APD Standard Operating Procedures requires citizen complaint reviews to be complete within 60 days of receipt. The Chief of Police may request a 30-day extension from the CAO or the Deputy CAO for Public Safety. Exhibits 6-1 and 6-2 illustrate the timeliness of CPC investigations over the past four years.

Exhibit 6-1 shows that the IRO generally meets its goal of completing 100 percent with in 90 days however the number outside that goal did increase significantly in 2005.

Exhibit 6-2 shows that over the most recent four-year period IA has been unable to meet its performance goals as cited in the SOPs. In no year did IA achieve any of they completion goals, and in 2005, 40 percent of completed complaints exceeded the time limit.

**EXHIBIT 6-1
TIMELINESS OF CITIZEN COMPLAINTS
INVESTIGATED BY IRO
2002-2005**

	Investigations Completed By End Of Year	Percent Completed Within 60 Days	Percent Completed Within 90 Days	Percent Completed Beyond 90 Days
2002	92	80%	98%	2%
2003	126	86%	98%	2%
2004	182	92%	98%	2%
2005	203	75%	93%	7%

Source: POC Annual Reports 2002-2005.

**EXHIBIT 6-2
TIMELINESS OF CITIZEN COMPLAINTS
INVESTIGATED BY INTERNAL AFFAIRS
2002-2005**

	Investigations Completed By End Of Year	Percent Completed Within 60 Days	Percent Completed Within 90 Days	Percent Completed Beyond 90 Days
2002	72	58%	86%	14%
2003	65	54%	78%	22%
2004	73	59%	81%	19%
2005	148	29%	54%	46%

Source: POC Annual Reports 2002-2005.

RECOMMENDATION 6-1:

Hire additional investigators.

The addition of two investigators would reduce the IRO's investigators' caseload to manageable levels and virtually limit the number of cases referred to IA. This would leave IA to handle only internal investigations (I's) and eliminate the need for additional staffing in that section as mentioned in Chapter 8 of this report. The IRO, in a written response to recommendations in the Jerome Report argued that the hiring of additional investigators would "enhance the public's perception of fairness and impartiality" and "ensure the complaints are handled in a more timely fashion..." This should significantly reduce the number of cases that IA gets and improve IA's ability to complete the review of complaints within the established performance goals.

RECOMMENDATION 6-2:

Assign all CPCs to the IRO to investigate.

As discussed earlier and in the Internal Affairs chapter (Chapter 8), the additional investigators would allow the IRO to handle all CPCs. This was a concern expressed by several POC members and APD officers including the Chief of Police. This change in responsibilities would require SOP and rule changes for the APD and POC.

FINDING

The IRO has not established formal criteria for the referral of CPCs to IA. The IRO explained that his office generally investigates all incidents involving use of force, injury to the complainant, racial profiling, discrimination and racially charged issues. Other than these cases, assignments sent to IA are based on workload. The IRO said it would be difficult to limit his investigators workload to 12-14 cases (a goal established by the IRO) if he adopted formal criteria. The result, however, is an increase in CPC cases referred to IA, which contributes to IA's inability to complete cases in a timely manner as prescribed in the SOPs. The addition of

two IRO investigators as requested may eliminate or reduce the need for additional IA investigators.

RECOMMENDATION 6-3:

Establish criteria for CPCs that will be handled by the IRO and those that will be referred to IA.

It is important that the IRO, IA, and the public know who is responsible for investigating certain complaints. The POC was created on the premise that it would provide an independent and fair review of citizen complaints about police conduct. Increasing the number of CPCs going to IA for investigation defeats the purpose of the POC and IRO. By IA conducting investigations of so many citizen complaints, a perception of lack of independence in the investigations may compromise the integrity of the complaint review process.

FINDING

The IRO's efforts to play an active role in the community and provide outreach are limited. POC Ordinance 9-4-1-6 (G) requires that the IRO play an active role in the community, and whenever possible provide outreach including the identification of non-police locations suitable for citizens to file complaints. This was also a recommendation in the Jerome report.

The following represent the IRO's response to recommendations in the Jerome Report:

- A volunteer was assigned to distribute complaint forms to senior citizen centers, libraries and homeless shelters throughout Albuquerque.
- The IRO personally distributed forms to various groups including Vincinos United, NAACP, ACLU and the Center for Justice.
- The IRO developed a survey in 2003 that is sent to all complainants.
- 2002 Census data was reviewed and as a result complaint forms were published in English and Spanish.
- A Spanish translator was contracted to assist the IRO during investigations that involve non-English speaking complainants.

While notable, the IRO indicated these efforts took place when he was first appointed and his interaction with community groups since that time has been limited. While the web site is an important communication tool, it is not readily and easily accessible to everyone.

RECOMMENDATION 6-4:

Develop a strategic plan for community outreach in collaboration with the long-term planning committee (LTPC) and provide updates in quarterly and annual reports to the POC.

The purpose of the LTPC, as explained in POC ordinance 9-4-1-5, G, is “to engage in long-term planning through which it identifies major problems and establishes a program of policy suggestions and studies each year.” The LTPC is the appropriate venue to develop a community outreach strategic plan and evaluate its outcomes.

RECOMMENDATION 6-5:

Team up with the city’s Vietnamese Task Force to evaluate the community’s understanding of the POC and IRO processes, and determine outreach needs.

The APD in its FY2004/2005 strategic plan assigned a Vietnamese officer to the city’s joint task force to address any concerns of the Vietnamese community. The IRO does not believe there are any problems with the Vietnamese community because his office has not received any complaints. Research shows that it takes a great deal of outreach to build the trust required for Asian community members to come forward and make complaints against police. The IRO should participate in the city’s Vietnamese Task Force to determine outreach needs.

RECOMMENDATION 6-6:

Conduct complainant surveys on an on-going basis, but seek ways to increase the number of responses and increase the depth of analysis.

The IRO is commended for his initiative in implementing a process to survey complainants. While the number of responses is low, the information is vital to evaluating public opinion and improving the complaint process. Research shows that mail surveys receive the lowest response. While telephone and interviews receive the most participation, they can be expensive. The POC should review the survey process and fund its continued development. This may require hiring an expert to review the survey instrument and assist the IRO with analysis of

survey responses. The IRO should consider contacting the University of New Mexico to enlist expertise from social scientists.

FINDING

Several APD members interviewed expressed concerns that the IRO’s public letter record, which is sent to complainants explaining the outcome of their investigation, contained language that went beyond facts and included opinions that did not reflect positively on the department even when the findings were favorable to the department.

Several APD officers indicated that disposition letters written by the IRO to complainants contained comments such as “the officer should not have violated your civil rights.” A review of letters sent to complainants revealed that significantly more information about the case and discussions of the officer’s culpability is provided by the IRO and may incur liability for the city. The Chief of Police had the same concern and has discussed this issue with the IRO on a couple of occasions. Officers also complained that some complainants had brought these letters to POC appeals hearings and court as evidence in their defense.

The IRO provides a draft of the letter to the POC and to the Chief of Police for review at least two weeks prior to the monthly POC meeting. The Chief of Police has legal resources available to him to review the letter and to make recommendations for changes to the IRO prior to the POC’s approval of the letter. In addition, legal resources are also available to the POC. If commissioners have any concerns about the public letter of record, the chair of the POC could request the attorney assigned to the POC review the letters on behalf of the POC.

RECOMMENDATION 6-7:

The Chief of Police and the Chair of the POC should take advantage of existing resources to request legal reviews of public letters of record as needed.

The Albuquerque City Attorney’s Office assigns attorneys to the POC and to the APD. If the chief or the POC have concerns about language in a letter, they should request a review of the letter by legal staff and ensure that any recommended changes be communicated to the IRO

within three business days prior to the next POC meeting. This process would not impair the actual or perceived independence of the IRO and would ensure no delays are incurred as a result of the review.

FINDING

The IRO is selected by the city council based upon a nomination by the mayor. The position is a full-time contractual city employee. The contract is for two years. Based on the substantial minimum qualifications and on the somewhat unique skills that experience in the position will develop, it does not serve the city to limit the term to only two years.

A substantial investment would be required by a new IRO to relocate to Albuquerque, or even for a local attorney to give up their current position to take the IRO position when there is only a two-year commitment from the city. The IRO and several POC members interviewed expressed concerns about the term limit.

RECOMMENDATION 6-8:

Revise the ordinance to extend the IRO contract time-period to more than a two-year contract as currently required.

It is not clear what, if any, purpose such a restrictive limitation has or how the city benefits from it. To help ensure the city can attract the best possible candidates for this position, the contract period should be extended to at least three years.

***7-Findings and Recommendations-
Internal Affairs***

7 FINDINGS AND RECOMMENDATIONS – CITY OF ALBUQUERQUE POLICE DEPARTMENT – INTERNAL AFFAIRS

This section of the report presents the results of MGT's evaluation and analysis of the City of Albuquerque's police oversight system as it relates to the Albuquerque Police Department's Internal Affairs section.

Background

The Internal Affairs (IA) section is commanded by a lieutenant and staffed by five sergeants, one "rehire" officer (retired officer hired on salary but with no further contributions to retirement system) to handle overflow cases, three administrative assistants, and one part-time volunteer. One administrative assistant and the volunteer are responsible for the maintenance and data entry into an early warning system (EWS).

IA reports directly to the Chief of Police and is responsible for investigating any allegations of misconduct, violations of the Constitution and laws of the United States, State of New Mexico or City of Albuquerque, and any allegations related to potential defects in policy, procedures, rules or the service delivery system by department personnel. It is also responsible for conducting trend analysis of unacceptable behavior and training needs (see SOP 3-41).

Investigations fall into two categories: citizen complaints (CPCs) and internal complaints ("I"s). A CPC is a complaint made by a citizen outside the department and an "I" is a complaint that originates inside the agency. For example, an "I" would be initiated if a supervisor filed a complaint against an officer for a violation of APD SOP. Officer involved shootings are also handled as "I"s. IA is responsible for all "I" investigations.

All CPCs are routed to the IRO who assigns them to his office (see IRO section for an explanation of the criteria used) or to IA for investigation. The following chart shows the number of internal investigations and citizen complaints handled by the IRO and IA between 2002 and 2005.

**EXHIBIT 7-1
INTERNAL INVESTIGATIONS AND CITIZEN COMPLAINTS
2002-2005**

Year	“I”s	CPCs
2002	168	198
2003	194	220
2004	234	307
2005	310	351

Source: Internal Affairs Annual Reports, 2002-2005.

The data reveal a significant increase in CPCs and “I”s in the past four years. The IA commander and the IRO believe the increase is due to several factors including increased public education and confidence in the complaint process through the IRO and appeals through the POC, a new police administration that is less tolerant of officer misconduct and the convenience of filing a complaint via the Internet. The APD completes quarterly and annual reports on the status of investigations, early warning system (EWS) data and SOPs related to IA for city council review.

FINDING

Historically, the IA lieutenants have rotated out of IA after a short period of time in the assignment. Many law enforcement agencies establish a minimum and maximum number of years that a person may work in special assignments. A range of two to five years in a special assignment is common. Special assignments typically include such jobs as detectives, internal affairs, narcotics, gang units, traffic and training. The more stressful and high risk assignments like narcotics and gangs are often limited to two years. Most agencies establish criteria and

tenure for special assignments in a department SOP or negotiate it in labor contracts. The APD's staff should review this issue and determine the appropriate method to address special assignment criteria.

RECOMMENDATION 7-1:

Develop criteria that establish the minimum and maximum length of time the IA commander may work in that assignment.

A SOP that ensures the IA commander position is filled by the same individual for a set period of time will benefit the department. It will ensure the lieutenant holds the assignment long enough to attain the requisite knowledge and skills for the assignment as well as establish stability of command in the unit. The frequent rotation of a commander in any unit, especially one that deals with such critical issues as IA, is very disruptive. However, setting time limits for these assignments is important and limits the stress and "burn out" that often accompany these jobs.

FINDING

Frequently, investigator positions, which are sergeants, are filled with newly promoted sergeants. In the past, some newly promoted sergeants were selected for investigator positions in IA. This creates a number of potential problems, not the least of which is their lack of experience as a supervisor. Typically, law enforcement agencies evaluate the performance of newly promoted sergeants during a probation period (typically one year) in a field assignment. This ensures that the new sergeant develops the basic knowledge, skills, and abilities for the position. Field experience also provides new sergeants the opportunity to deal with a number of personnel issues including discipline, which may later benefit them in an IA assignment.

RECOMMENDATION 7-2:

Develop criteria for sergeants selected to work in IA that requires experience as a supervisor.

An assignment in IA is challenging. Investigative and supervisory experience should be prerequisites for holding such a position. The IA commander indicated that the requirements for sergeants assigned to IA may be discussed in the next labor negotiations. Regardless, the APD should be proactive and take the initiative to establish criteria in the job description for the assignment.

FINDING

There is a lack of consistency with how counseling results based on informal complaints are entered on employee cards. Informal complaints were said to involve issues that a supervisor felt were better handled through “informal counseling.” The purpose of counseling is to quickly deal with inappropriate behavior by an employee at the lowest level in order to positively modify that employees behavior.¹ According to APD’s SOP 1-09, issues that may be handled as informal counseling were said to fall under the “Class 7 offenses” (lowest level). The department established a schedule of sanctions to provide a framework for fair and consistent administration of discipline. The classes of sanctions are identified throughout the SOPs and provide supervisors a guide for determining the severity of a violation.

Informal complaints are documented by IA in a log book (separate from EWS) when information is forwarded by the supervisor via memo or e-mail or entered on an officer’s employee card (see SOP 1-04-10). According to some APD officials interviewed, the documentation of informal counseling on an employee card does not always occur. IA conducts an audit of every employee’s card annually as required by SOP, but would not know if a supervisor neglected to document an informal counseling.

¹ Albuquerque Police Department, General Orders, Discipline System, Section 1-09-11 Counseling.

RECOMMENDATION 7-3:

Document informal complaints in the EWS.

If the emphasis of the EWS is on “training and counseling,” as noted in SOP 3-49, it would make sense to include informal counseling in the EWS to help ensure the identification of employees with multiple incidents and as well as identification of trends department-wide. The documentation of informal complaints is common among law enforcement agencies to ensure that trends in poor behavior and performance are tracked and proper interventions are taken.

RECOMMENDATION 7-4:

Move the responsibility of auditing of informal complaints from IA to the Inspections Unit and include in the audit program a review of SOPs, supervisors’ reporting, and documentation by IA.

The APD Inspections Unit, in accordance with SOP 3-43 (“Complaints Involving Department Policy or Personnel”), is responsible for conducting audits. The APD amended the SOP to include a definition, criteria and procedures for handling informal complaints.

FINDING

IA has experienced a significant increase in investigations during the past four years resulting in what is described as an unacceptable caseload for investigators. In the past four years, internal investigations alone have increased by 54 percent (168 to 310). So far this year, “I”s far exceed last years record levels (70 compared to 40 last year). As a result, the IA commander assigned the “rehire” officer a full investigative caseload, which violates the APD’s agreement with the APOA that places limits on rehire officer assignments.

The IA commander stated that experience shows his investigators are able to handle eight active cases including one priority case at a time (i.e., shooting, criminal investigation, or major administrative investigation such as gross misconduct). Currently, investigators are handling 10-12 cases including two or more priority cases. The IRO’s Annual Report to the POC (2005) reveals that only 29 percent of 148 cases for 2005 were closed within the required 60 days, and

46 percent took more than 90 days. This reflects a significant increase over 2002-2004. The IRO attributes the extended periods of investigative time to the considerable increase in CPCs and “T”s over the past four years.

RECOMMENDATION 7-5:

Reexamine the need for additional investigators in IA.

The addition of IA investigative staff would reduce investigators caseloads, the number of cases that exceed the required 60- and 90-day limits, and eliminate the need to assign a full caseload to the “rehire” officer, which is in violation of the APD’s agreement with the APOA. However, the hiring of additional IRO investigators would reduce the need in IA for additional investigators. If IRO is able to hire additional investigative staff, IA should not need any at this time.

RECOMMENDATION 7-6:

Consider limiting IA’s investigations to “T”s only.

The IRO has requested two additional investigators in a memo to the POC last year. The Chief of Police supported this request. It was the opinion of several city and APD officials interviewed that the IRO would be able to handle all CPCs with the addition of two investigators. If this occurs, IA could handle all “T”s with current staffing, eliminating the need for more investigators in IA, as explained in Recommendation 7-5.

FINDING

Internal Affairs quarterly and annual reports to the city council provide the opportunity for additional analysis and education for the council and other readers. The IA unit provides quarterly and annual reports to the chief and city council for review. These reports provide data on the number of CPCs, EWS, use of force (UOF) reporting, and training and a short summary of cases. While the reports offer a wealth of information about cases, they are short on analysis and discussion. The current format provides one to two pages of discussion focused

primarily on the number of incidents and percentage completed with time-periods, followed by more than 40 pages of raw data and report summaries. This leaves the analysis and interpretation of data to the reader.

RECOMMENDATION 7-7:

Change the quarterly and annual report format to address all IA reporting requirements as delineated in SOPs.

IA should consider revising the report format to address the following areas of responsibility: CPCs, "I"s, EWS data, UOF reporting, training needs, and SOP recommendations. Each section should provide a data table followed by analysis and a discussion of the information presented. This would greatly improve the comprehensiveness and readability of the report and make it a more useful management tool.

FINDING

A process for investigating officers the rank of captain and above is in place but not articulated in policy.

A recent investigation involving the former Chief of Police and captains raised the question of who should investigate senior officials at the APD. According to SOP 3-43, these investigations would be handled internally by IA. The investigation of senior staff is a difficult task for police agencies. Generally, as in APD's case, IA investigators hold the rank of sergeant, which can create an intimidating situation when investigating senior ranking officials. It can also lead to a public perception that lower ranking officers are unable to fairly investigate their bosses. For this reason, many agencies require that the investigation of senior officers is conducted by officers who hold an equal or higher rank, or by external investigators.

As a result of the previously mentioned investigation involving high ranking APD officials, the department's new policy is to refer all such investigations to the IRO. The IRO has the option of investigating the matter or outsourcing it to an independent party. This process appears sound and while it is in place, it is not articulated in the APD's SOPs.

RECOMMENDATION 7-8

Ensure the process for investigating captains and above is included in the department's SOPs.

SOP 3-42 "Complaints Involving Department Policy or Personnel" appears to be the appropriate place for articulating this procedure. The procedure should include referral to the IRO and how non-concurrence between the IRO and APD is handled.

8-Other APD Accountability Mechanisms

8 OTHER APD ACCOUNTABILITY MECHANISMS

This section of the report presents the results of MGT's evaluation and analysis of the City of Albuquerque's police oversight system as related to other accountability mechanisms implemented by the Albuquerque Police Department.

Background

The APD employs a number of accountability mechanisms to help ensure that officer performance and behavior comply with requirements of the U.S. Constitution, state and local laws, and department rules and regulations. While the APD is commended for addressing many recommendations in the Walker-Luna and Jerome reports, there are several issues still in the process of resolution or that require attention.

APD, like most large city police departments, has an early warning system (EWS) to help identify problem officers as soon as possible. It is commonly known that a small percentage of officers are involved in a high percentage of citizen complaints. This phenomenon of the "problem officer" led to the development of police early warning systems throughout the nation. EWS is a data-based police management tool designed to identify officers experiencing behavioral problems and in need of early intervention. These EWS alerts allow the department to intervene with counseling or training before the situation escalates. The Walker-Luna Report identified EWS as a "vital tool in the advancement of police accountability." The following is a description of the EWS that was prepared by Mr. Walker, a few years after he conducted his review of police oversight in Albuquerque.

Early Warning Systems

Studies have shown that within police departments, there are a small number of police officers that are responsible for a disproportionate amount of citizen complaints. It was first observed in the 1970s that these “problem officers” are often known to their cohorts, administrators, and citizens in their areas, but nothing was being done to correct their inappropriate behaviors. In 1981, the U.S. Civil Rights Commission was the first group to recommend early warning systems as a response to these officers. Since then early warning systems have been endorsed by the International Association of Chiefs of Police (IACP), and the U.S. Justice Department.

Early warning systems are data-based management tools used to identify police officers whose behaviors have been problematic and to intervene in order to correct these behaviors. They serve to prevent further actions by officers that may later warrant disciplinary actions. These systems are able to alert the department to its problem officers, warn officers of their behaviors, and provide them with counseling or training to help in rectifying the behavior. In general, a record is usually kept on an officer if they participate in the early warning system, but is not placed in their personnel file.

While there is no specific model, an early warning system has three phases including selection, intervention, and monitoring. First officers are selected for the early warning program. While there are no universal guidelines for selecting these officers, there are several indicators that are used such as citizen complaints, use-of-force reports, civil litigations, resisting arrest incidents, and high-speed pursuits. Most departments use a combination of these factors, while others may only use citizen complaints.

Intervention is one of the primary goals of an early warning system as it provides an opportunity to help change the behaviors of a problem officer. These systems often operate under the idea that the training and education of officers will help to improve their performance. In

most systems, intervention consists of counseling sessions between the offending officer and their supervisor, but can also include training classes for groups of identified officers. The informal monitoring of an officer's performance after the intervention is typically conducted by their supervisor. Some departments implement a more formal process of monitoring its officers through observation, evaluation and reporting.

One of the basic goals of an early warning system is to create a closer relationship between the departments and the communities they serve, putting these systems in line with the goals of Community-Oriented Policing (COP). Some studies suggest that early warning systems can reduce the number of citizen complaints in a department as well as the number of problem officers. In order for an early warning system to have an effect on a department, there must be a universal commitment to the accountability of the organization. It must also be noted that this is one of many tools used to raise the standards of an organization.¹

Albuquerque's EWS was recently upgraded to a newer database, but still lacks the functionality required to conduct trend analysis and produce reports. While the APD has made notable improvements in its use of force reporting (from 40 to 86 percent between 2002 and 2005), discussions with officers and supervisors reveals there is much confusion about reporting requirements. Although, the city's risk manager and APD claims adjuster provide the IRO and IA with tort claim and lawsuit data, there is no trend analysis of these data.

FINDING

The current EWS is antiquated and does not produce reports or data easily retrievable for trend analysis.

¹ Walker, Samuel, Geoffrey P. Alpert, Dennis J. Kenney. "Responding to the Problem Police Officer: A National Study of Early Warning Systems, Final Report." National Criminal Justice Reference Service (NCJRS). September 25, 2000.

The APD's initial effort to implement an EWS was unsuccessful when the system it purchased failed to meet the department's needs. As a result, the APD used the expertise of a part-time volunteer to develop a simple tracking system using off-the-shelf spreadsheet software. This program was upgraded to an Access database in 2003, but is limited in its search and reporting capabilities. Efforts are underway to replace the system with commercial IA software.

This should resolve several issues identified in the Jerome Report such as:

- EWS is dependent on the part-time volunteer and police assistant for data entry and management. Backlogs in data entry are common.
- EWS is not readily accessible to managers and commanders who must make requests through the volunteer.
- EWS has limited search capabilities (e.g., can not search data by supervisor, shift or other APD unit).
- Retrieving EWS data is cumbersome, often requiring multiple queries and manual compilations of data, which increases the risk of error.

The IA commander indicated the current program is limited in its search capabilities and unable to produce data in a format that lends itself to conducting trend analysis. Currently, all EWS data (UOF, CPCs, Is, firearm discharge, missed court appointments, range dates, training, physical assessment, preventable police vehicle accidents, and civil lawsuits) is first entered manually into a logbook and then entered into EWS by the IA volunteer or police assistant. The final disposition of cases is also entered manually and then converted to the EWS. This duplicate entry of data is a primary reason why data entry into EWS is often backlogged for months.

IA is responsible for conducting trends analysis of unacceptable behavior and training needs (see SOP 3-41), but the present EWS limits the analysis and reporting of data. As a result, the IA commander said he simply reviews the raw data of incidents and reports any appearance of patterns to the policy review board, training board and in his quarterly and annual reports.

RECOMMENDATION 8-1:

Replace IA's EWS tracking spreadsheet software with "off-the-shelf" IA software that assists with the comprehensive analysis of data and the generation of reports.

IA has submitted a recommendation to purchase “IA Pro” software (used by more than 125 law enforcement agencies across the country). There are several IA software programs available to law enforcement agencies that ensure the efficient entry of EWS data and provide the means to identify and analyze areas of concern. These programs use a relational data base with extensive search and reporting capabilities. They also allow agencies to set specific thresholds and alerts on the number of violations within a period of time. Since the interviews with IA and MGT’s verbal recommendation to replace the EWS, the Chief of Police approved the purchase of IA Pro. The software is pending review by APD’s IT section.

RECOMMENDATION 8-2:

Include the tracking of resisting arrest and assault on police officer data in the EWS.

Including resisting arrest and assault on police officers’ data in the EWS is a recommendation that was also included in the Jerome Report. Many agencies’ EWS track this information because of the high percentage of tort claims and lawsuits that result from situations involving arrest and assaults on police officers. The collection of tort claims and lawsuits should be coordinated with risk management.

FINDING

The APD’s EWS review panel as described in SOP 3-49-2, has not been used as intended. The EWS review panel is designed to examine and discuss EWS analysis with employees, recommend retraining or remedial action, schedule stress counseling or consider reassignment. A EWS panel hearing may be convened by the Deputy Chief of Administration at the request of the EWS coordinator (IA lieutenant) or anyone in the employee’s chain of command. The SOP requires that the EWS coordinator attend all EWS review panel meetings.

The IA commander was not aware of the EWS panel and has not received notice of any meetings during his year and a half in IA. The SOP as written would suggest that several panels

would have been convened annually to address problem employees identified through EWS alerts.

RECOMMENDATION 8-3:

Review the function of the EWS review panel (SOP 3-49) to ensure it is being utilized as required by the SOP.

The lack of meetings may be due to language in the SOP that the EWS review panel meetings may be scheduled “as necessary.” There are no requirements or criteria established for when a meeting should be scheduled.

FINDING

The use of a set number entries or “hits” in the EWS as a threshold for intervention requires reconsideration. Many officers thought the present system was unfair. The consultant team agrees that it does not take into account the different environments where officers are assigned and as a result, may reduce the effectiveness of the system. One officer put it simply, “If I don’t do any work, I won’t get in trouble.”

Once an officer is the subject of five EWS entries, the officer has reached a threshold that requires notification of his deputy chief. SOP 3-49 provides guidance on supervisors’ responsibilities for handling EWS notifications. As pointed out by officers, the EWS threshold (five entries in 12 months) is an arbitrary number and does not take into account the location or shift they work. Officers who work the downtown district on weekends, for example, will respond to a significantly higher number of incidents that are reportable to EWS than those who work in the suburbs on the day shift. Therefore, the number of reportable EWS incidents can be more of a product of the area and shift than of an officer’s response to a situation or to a citizen. Officers who work downtown felt they get an unfair mark by just doing their job.

RECOMMENDATION 8-4:

Modify the number of EWS entries, which an officer may receive before recommending intervention from an arbitrary set number to more a statistically valid number based the deviation from a standard or norm for the area and the shift each officer works.

Just as five may not necessarily indicate a problem for downtown night shift officers, three may be too many for an officer who works the day shift in the suburbs. The City of Pittsburgh did some work in this area that is quite noteworthy. They compared officers to officers who work in similar beats based on activity and demographics. Their stops, complaints, uses of force, etc., and compared with similar peer groups. This is a great improvement over our earlier attempts to compare officers in very busy intercity beats to those in the slower more affluent ones.

Use of Force Reporting

The APD's Use of Force SOP (2-52) directs that an officer use "only that force which is reasonable and necessary to protect the sanctity of human life, preserve and protect individual liberties and to affect lawful objectives." Officers are required to provide detailed documentation in a supplemental report any actions that result in an injury or alleged injury. An officer's immediate supervisor is responsible for completing a use of force form (required on all incidents involving hand-to-hand action resulting in an injury, baton strike, canine bite, mace, taser, less lethal and lethal munitions), which is reviewed by the officer's chain of command to ensure the action was within department SOP. Copies of the reports are sent to IA, risk management, legal, IRO and other appropriate divisions. An officer's commander is responsible for documenting the incident on the officer's employee card, which is a permanent file kept in all employees' personnel file to document incidents that involve disciplinary action, corrective training, counseling, and complaints that were sustained. While the UOF reporting is outlined in the SOP, it was clear to the consultant team that not all supervisors and officers were familiar with the required reporting procedures. There was an indication in discussions with groups of officers and supervisors that many had not read current policies.

FINDING

Use of force reporting is well below 100 percent. APD officers are required to fill out a report for each occurrence of a UOF incident. That is not what happens. In 2005, according to IA’s review of UOF reporting, only 86 percent of UOF incidents had a report. While the APD is commended for improving UOF reporting from 40 percent a couple of years ago to 86 percent, less than 100 percent compliance is not acceptable. It was reported that some supervisors choose to use more discretion in the reporting of UOF incidents than is allowed by SOP. In one example, an officer indicated that his supervisor chose not to report his use of a baton. This is clearly outside the requirements of the SOP.

The SOP is clear and requires use of force incidents be reported “immediately.” Part of the problem, however, may lie in officers’ and supervisors’ interpretations of the requirement to “immediately” report the incident to a supervisor. Some officers interviewed stated their supervisors appear on the scene of UOF incidents, while other officers assumed their report of the incident was adequate notification. During group discussions, which included captains, lieutenants, and sergeants, there was considerable confusion and differences of opinion expressed about UOF reporting requirements.

RECOMMENDATION 8-5:

Assign the APD’s Inspections Unit to audit UOF reporting.

The POC annual report noted that “supervisors were not completing use of force forms as required, and recommended the “APD continue to address this issue as a priority.” An audit, additional training and reinforcement of the SOP are needed if the APD is to reach 100 percent reporting.

RECOMMENDATION 8-6:

Issue the “APD Sergeant Reference Guide” in training for all lieutenants and sergeants.

The APD's Operational Support Unit developed a reference guide for newly promoted sergeants a year and a half ago that contains SOPs most critical to a supervisor's daily performance. At the same time, the department updated its two-week long on-the-job training (OJT) program for new sergeants. The reference guide is a collection of SOPs that are most critical to a supervisor's daily worked. It includes SOPs in 12 important areas including: use of force, pursuit by motor vehicle, accidents involving police vehicles, Internal Affairs, and complaints. The reference guide and OJT program guidelines are issued to all new supervisors. The OJT program outlines several critical areas that a training sergeant discusses with the new supervisor. One requirement is to meet an IA representative and discuss a number of issues including informal and formal complaints, CPCs, "I"s, citizen complaint forms and the POC. Nearly 50 new supervisors have completed this program.

FINDING

While several experienced supervisors have requested a copy of the reference guide, it was not distributed to all supervisors.

RECOMMENDATION 8-7:

The APD should task the training committee to review this issue and coordinate in-service training for all supervisors (lieutenants and sergeants) that addresses information contained in the Sergeant Reference Guide and IA section of the OJT program.

Risk Management

The City of Albuquerque's Risk Management Office (RMO) oversees the handling of tort claims and lawsuits filed against the city, including police misconduct. A claims adjuster, who is an RMO employee, is assigned to the APD and handles all claims against the department. Risk Management contracts with two outside companies to investigate claims involving excessive use of force and false arrest by officers. Any litigation arising from claims is handled by the City Attorney's Office or by contract with an outside legal firm. The mayor adopted a "no settlement" policy for claims involving officer misconduct in an effort to discourage frivolous lawsuits. In

the past, attorneys were encouraged to file lawsuits as a result of the city's practice of settling what was described as "nuisance claims" simply to avoid court. All claims decisions are made by a review board, which meets weekly and is attended by the IA commander and IRO.

FINDING

Tort claim and lawsuit data related to alleged officer misconduct are being collected and entered into the EWS but are not being analyzed to identify SOP or training needs. All tort claims and lawsuit data are sent to the IRO and IA by the City of Albuquerque's Risk Manager. The data in turn is entered into the EWS by IA and reviewed by the IRO, but we could find no indication that trend analysis is being performed.

RECOMMENDATION 8-8:

Develop a process for monitoring and analyzing tort claim and lawsuit data that involves the City Attorney's Office, Risk Management Office, IRO, and IA.

The analysis of tort claims and lawsuits would assist the APD in evaluating SOP and training needs. It may also reduce the overall costs of claims annually shedding light of poor policies and procedures or indicating officers or vehicles that have higher than average rates of incidents. The Walker-Luna and Jerome reports suggested that the City Attorney's Office and Risk Management take a more active role with the APD in monitoring patterns of officer misconduct alleged in tort claims and lawsuits. Interviews with the representatives from the City Attorney's Office, Risk Management, IA commander, and IRO reveal this is not being done.

Critical Incident Review Board

The Critical Incident Review Board (CIRB) conducts inquiries into police actions at the discretion of the Chief of Police to identify strengths/deficiencies in policies/procedures, training, equipment and/or other elements required to adequately perform police functions (see SOP 3-67). The board is chaired by a captain or above and representatives from Communications, Field Services, Detectives, Training, APOA, Legal, and Risk Management. All board

recommendations are forwarded to the Chief of Police for final review and approval. The purpose of the board is not disciplinary; rather it is tasked to make recommendations to improve the APD's efficiency and effectiveness.

FINDING

The CIRB became effective in 2002 but was disbanded when board members were said to have overstepped their authority and interfered with active investigations. The Chief of Police has reinstated the board, which was recently convened to review a shooting incident.

COMMENDATION

The Chief of Police is commended for his leadership in reinstating the CIRB.

Policy Review Board

The APD's Policy Review Board (SOP 3-65) was established to initiate, review, and evaluate department SOPs and procedures upon request. Board representatives include the department's planning manager, accreditation/inspections supervisor, bureau deputy chiefs, field services supervisor and officer, payroll manager, legal advisor, and APOA representative. Anyone in the department may bring a recommendation before the board to change existing SOPs or create a new policy. All policy recommendations to the board must be coordinated with the APD's Inspections Unit/SOP detail to ensure compliance with the Commission on the Accreditation for Law Enforcement Agency (CALEA) standards.

FINDING

Interviews with the IRO and APD personnel revealed considerable confidence in the policy review board process.

COMMENDATION

The APD is commended for recently including an IRO representative on the board. The consultant team believes the inclusion of the IRO on the policy review board is an important step in ensuring that issues related to officer conduct receive timely consideration with respect to SOP considerations.

FINDING

During meetings with groups of officers and supervisors, some revealed that they did not read all SOPs issued to them and some cases discarded the SOPs they did not consider important.

All SOPs are distributed in hard-bound copies to new employees in the academy. Revisions are distributed to the field and officers sign for receipt. An automated program was developed to track officers' receipt of new SOPs and revisions. While the tracking system appears sound and policy requires that officers read all SOPs issued, some officers and supervisors admitted they only read SOPs they believed most important.

RECOMMENDATION 8-9:

Assign the Inspections Unit to conduct an audit of officers' SOP manuals.

The APD's Inspections Unit is responsible for conducting staff inspections. The fact that some officers admitted to discarding SOPs they believed unimportant may explain some of the confusion that exists regarding EWS and UOF reporting. The fact that some officers do not read all SOPs may result in mistakes during the performance of their duties. This is a critical issue that the APD should address immediately.

RECOMMENDATION 8-10:

Distribute SOPs electronically to all APD staff.

Many police agencies have discontinued issuing SOPs in hard copy due to the amount of time and effort required to manage the distribution process, not to mention the considerable cost. The APD has a local area network (LAN) that is well-suited for the electronic distribution of SOPs. The issuance of SOPs electronically is more timely and efficient than distributing hard copies.

Training Committee

The APD’s training committee (see SOP 3-69) was created to evaluate, coordinate, and oversee all in-service and advanced training. The director of training chairs the committee, which is comprised of a cross-section of representatives from operational units which meet quarterly. The committee’s principle focus is to ensure the department meets the State of New Mexico’s legislative mandates for police officer annual training.

Requests for training come from a variety of areas including the CIRB, safety review board, policy review board and IA. The training director indicated that he speaks frequently with the IA commander and operations review commander to discuss training needs. The “briefing” training committee tasks its audio visual unit to deliver monthly training on issues through a program it calls “Duke City Blues.” This training is typically used to deliver general informational updates and to discuss new or revised SOPs. Commanders are responsible for documenting attendance and the SOP detail audits attendance records annually as a requirement of CALEA.

FINDING

The training division and officers and supervisors interviewed have a difference of opinion about the use of monthly “briefing” training.

Officers and supervisors expressed the need for more briefing training. Only a few seemed familiar with the “Duke City Blues” format and several suggested the need for additional briefing training to address important issues such as new SOPs.

RECOMMENDATION 8-11:

Assign the Inspections Unit to audit briefing training to ensure that the training developed is being distributed properly to the field.

The training division lieutenant indicates that new video training is provided every month for briefing training. Officers and supervisors said that “Duke City Blues” training was infrequent at best. There is clearly a disconnect between the training and operational divisions that requires further inquiry. The training committee should make looking at this issue a priority.

FINDING

There appears to be a fundamental lack of understanding by police officers about the purpose of civilian oversight of law enforcement agencies.

Officers and supervisors expressed a basic indifference to the civilian oversight process in Albuquerque. Many thought the televised meetings and appeals hearings were little more than a joke and they could not understand how civilians who have never been “in their shoes,” can weigh-in on their conduct. Like many finding in this report, the basic issue is communication.

RECOMMENDATION 8-12:

Include training about civilian oversight of policing agencies in the APD curriculum.

The core issue of the police oversight process is communications. The oversight process provides a forum for all parties to be heard and to listen about issues of significant relevance to the community. Presentations by the IRO, POC members and city departments such as the City Attorney and Risk Management Office should be considered for inclusion in academy and in-service training sessions.

Safety Review Board

The department convenes a safety review board (see SOP 3-66) to review and classify all preventable and non-preventable accidents involving police vehicles. The APD adheres to the National Safety Counsel (NSC) guidelines for classifying preventable and non-preventable accidents. The board has no disciplinary authority. Its purpose is to review the cause of accidents and make recommendations to reduce the frequency, severity, and associated costs. All preventable accidents are entered into the EWS and investigated by IA. Accidents involving

fatalities or serious injury are investigated by qualified traffic personnel and sent to the District Attorney's Office to determine responsibility. Traffic accidents are another area that often results in tort claims and lawsuits. The board reports any trends or training needs to the training committee.

COMMENDATION

The APD has taken a proactive step in the reduction of liability with its implementation of the safety review board.

***9-Findings and Recommendations-
Police Shootings***

9 FINDINGS AND RECOMMENDATIONS – CITY OF ALBUQUERQUE POLICE DEPARTMENT – POLICE SHOOTINGS

This section of the report presents the results of MGT’s evaluation and analysis of the City of Albuquerque’s police oversight system as related to the Albuquerque Police Department’s handling of police shootings.

Background

A series of officer involved shootings (35 fatalities from 1989-1999) prompted Albuquerque City Council in 1997 to request an independent review of the civilian oversight process (Walker-Luna Report). This review led to a change in ordinance and creation of the Police Oversight Commission. The Walker-Luna report noted that Albuquerque experienced a high number of police involved shootings for cities of its population and that the level of violence was the 4th highest per capita in the country. A second audit of the POC in 2002 (Jerome Report) attributed a reduction in the number of shootings in years following the report to the introduction of the Crisis Intervention Team (CIT), changes in the manner SWAT was deployed, and the increased use of less-than lethal weapons. The FBI’s report on “Crime in the United States, 2004 ranked the City of Albuquerque 71st in violent crimes per capita.¹

Shooting Investigations

The APD investigates all cases (death, injury, accidental discharges, and destruction of animals) involving the discharge of firearms by sworn personnel (See SOP 2-31 “Investigation of Shootings and The Use of Deadly Force Involving Departmental Personnel,” SOP 2-52 “Use of

¹ Crime in the United States 2004, Department of Justice, Federal Bureau of Investigation.

Force: Deadly Force, Non Deadly Force, Less Lethal Force” and SOP 3-41 “Internal Affairs Unit.” The following table depicts the number of police discharges from 2000-2005:

**Exhibit 9-1
Shooting Investigations
2000-2005**

Year	Total Cases	Dogs/Other	Accidental	Injured Citizen	Fatalities
2000	14	7	0	5	2
2001	14	2	0	7	5
2002	12	5	2	0	5
2003	21	13	1	2	5
2004	36	21	10	3	2
2005	15	8	2	2	3

Source: City of Albuquerque Police Department, Internal Affairs Section.

The APD entered into a memorandum of understanding (MOU) on October 14, 2004 with the New Mexico State Police and the Bernalillo County Sheriff’s Department to jointly investigate officer involved shootings that result in death or great bodily harm. This multi-agency agreement designates the agency that employs the officer involved in the shooting as the “lead agency for investigations.” Once the multi-agency task force completes its investigation, it is submitted to the District Attorney (DA) for review. The DA submits all fatal shootings to the Grand Jury to determine whether the officer’s actions were within the parameters of the law. Criminal prosecution is considered based upon this determination.

IA conducts an internal investigation into the shooting once the criminal case is completed. This investigation is administrative in nature and seeks to determine if any SOP violations occurred. An appropriate discipline is administered by the Chief of Police for any violations of policy. The POC has the authority to assign the IRO to review IA investigation of a shooting and make findings to the POC and Chief of Police.

The investigative process from the time of the incident until the Grand Jury renders a decision often takes longer than a year and has generated considerable criticism among officers, IA, POC members, citizens, and the IRO. Several letters were sent to the District Attorney by the POC complaining about the problems resulting from this process. The Chief of Police indicated he is working with the DA to expedite the process.

MGT examined officer involved shooting policies from several large cities and discovered considerable variation existed in their investigative protocols. The following represents some common elements identified in the policies:

- Shooting investigations are conducted by a specialized shooting response team. Multi-agency teams were common.
- Criminal investigations take precedent over the administrative investigation.
- Involved officers were placed on 3-5 days administrative leave and often required to complete a post trauma/stress assessment by a psychologist before being returned to duty.
- The Chief of Police conducts an internal assessment into whether the shooting was justified or not before returning an officer to duty.
- A board/committee reviewed all shooting incidents and made recommendations on changes in policy, procedures or training. In some cases, these boards conducted an initial assessment of the shooting.

FINDING

APD SOP 2-31, which governs the “Investigation of Shootings and the Use of Deadly Force Involving Departmental Personnel”, does not address the new multi-agency response protocol.

The APD’s officer involved shooting policy was revised and made effective on September 21, 2004. On October 18, 2004, the APD entered into an MOU with the Bernalillo Sheriff’s Department and New Mexico State Police to create a multi-agency task force to investigate the following incidents:

- Officer-involved duty related shootings resulting in death or great bodily harm;

- Death or great bodily harm while in police custody, detention or control; and
- And officer initiated actions in which a death or great bodily injury occurs, including traffic accidents involving police pursuits.

The investigative protocols established in the MOU are not included in the APD's SOPs for handling incidents involving death and great bodily harm.

RECOMMENDATION 9-1:

Revise APD SOPs to include the multi-agency task force and protocols identified in the "Law Enforcement Involved Fatalities/Great Bodily Harm" MOU.

The APD should revise all policies and procedures related to officer involved shootings, police pursuit traffic accidents and police custody, detention or control incidents that result in death or great bodily harm.

FINDING

The APD would benefit by incorporating common elements of other agencies shooting policies and procedures into it's SOPs. MGT's review of the shooting policies and procedures for other agencies revealed several common elements that would benefit the APD but are not addressed in SOP's. These include establishing the time that officers will be placed on administrative leave, clarifying post event testing by the psychologist, identifying the internal review process before returning an officer to full duty, and developing a process to review all shooting incidents.

RECOMMENDATION 9-2:

Establish a process and time that that officers will be placed on administrative leave following a shooting incident.

MGT's review of other agencies shooting policies revealed that officers were generally placed on administrative leave with pay for 3-5 days. In some agencies, a post trauma or psychological testing was conducted during that time period to determine the officer's fitness for duty. In all cases, the Chief of Police was designated as the authority for returning officers to full

duty. There were some variations on how the chief would make that decision. In some agencies, the chief relied on the results of an independent shooting board (not internal affairs). In other cases, it was a result of a committee comprised of staff, detectives, and internal affairs that made a decision whether the shooting was justified.

RECOMMENDATION 9-3:

Include a discussion of the Behavioral Sciences Division Staff Psychologist protocol for officer involved shootings in SOP 2-31.

A discussion of the APD's Behavioral Sciences Division (BSD) staff psychologist protocol in officer involved shootings is articulated in SOP 1-14 "Behavioral Sciences Division." This should be included in SOP 2-31. While SOP 1-14 identifies that a BSD psychologist will "interview officers to determine additional needs before they return to regular duty status," it is not clear what kind of "interview" is conducted or who is authorized to return the officer to duty status. In MGT's review of other agencies policies, mandatory post trauma/stress interviews are discussed and the Chief of Police is identified as the authority for returning officers to full duty.

RECOMMENDATION 9-4:

Expand the Critical Incident Review Board to conduct inquiries and make recommendations for officer involved incidents resulting in death or great bodily injury.

The makeup of the CIRB in SOP 3-67 is well suited to conduct such inquiries. It could assist the Chief of Police in determining when to release an officer to full duty as well as make any recommendations concerning policies, procedures and training.

FINDING

The length of time to complete shooting investigations and for the DA to make a legal determination appears excessive. One of the concerns expressed by officers, POC members, IA, IRO, and the Chief of Police is the time it takes for the DA to make a determination whether a shooting was justified. One case took three years before the DA made a legal determination of justification. The DA's office defers some of the responsibility to detectives who they say take

up to a year to complete their investigation. MGT's review of shooting policies revealed that some agencies establish time periods for different stages of the investigation. For example, San Francisco PD specifies that a shooting review panel convene within five days and that the Homicide detail complete its investigation within 45 days.

In Albuquerque, the DA's office doesn't begin its review of the case until APD completes its investigation. The DA sends all cases involving death to the Grand Jury. In many other agencies, the only cases referred to a Grand Jury are those the DA believes are questionable. The DA's office indicated that it was the former APD Chief of Police that requested all cases be sent to the Grand Jury to ensure that an impartial body was making the final decision regarding whether the shooting was justified. The Chief of Police indicated his willingness to review this policy.

RECOMMENDATION 9-5:

Reduce the time it takes APD detectives and the DA take to investigate officer involved shootings and make a legal determination.

A year is typical and appears excessive when compared to other agencies. While it is important to maintain the integrity of such critical investigations, the length of time it takes APD Detectives and the DA's office to come to a conclusion creates considerable consternation among APD members, the POC and IRO. Extended delays in officer involved cases may also result in mistrust among community members. The DA should work with the Chief of Police to expedite the investigative process.

10-Conclusions

10 CONCLUSION

The city has come a long way toward having a truly outstanding civilian police oversight program. The program uses a good balance of internal police oversight and external civilian review and investigation. The POC and the IRO now have the ability to obtain evidence through subpoena power, which should enhance their ability to determine the facts in cases and make even more informed findings.

The leadership exhibited by the IRO and the newly appointed Chief of Police and their willingness to collaborate on police oversight issues is a remarkable change that has occurred in the past year. Police oversight in Albuquerque is still evolving but is truly approaching the model envisioned by community leaders and the two prior consultant teams when they embarked on this program more than 25 years ago.

Many recommendations made in this report are based on issues voiced by the prior consultants that are still valid and should be addressed. Others are issues that involve minor adjustments to the program to improve service delivery.

The leadership exhibited by the current IRO and Chief of Police is critical to the evolution of the oversight process and must be maintained even when the incumbents move on. The policies, practices and processes they have developed and nurtured must be institutionalized so that their successors can maintain the stability of the oversight process and allow it to continue to develop into an outstanding model of police accountability.

APPENDICES

Appendix A: Models of Civilian Oversight

APPENDIX A: MODELS OF CIVILIAN OVERSIGHT

State	City	Models of Police Oversight	Category
Arizona	Tucson	<i>Independent Police Officer</i> - Office has two staff members. They audits and monitor investigations, receive complaints, and forward them on to the Office of Professional Standards. They also monitor the shooting boards.	III
		<i>Citizen Police Advisory Review Board</i> - There are seven voting members appointed by the Mayor and City Council. Monthly public meetings are held to review IA investigations.	II
California	Berkeley	<i>Police Review Commission</i> - The commission receives and independently investigates complaints, reviews the Police Department and provides mediation. There are nine members and they have subpoena power. Complaints must be filed within 90 days of the incident. The commission forwards this to IA within 30 days but IA is not required to send all complaints to PRC. Mediation is an option. The PRC and IA investigate independently and officers must participate in PRC investigations. Any or all allegations may be dismissed, if it is not dismissed a Board of Inquiry is held and findings are forwarded to the City Manager and Police Chief (who decides whether or not to follow findings). A decision may be appealed within 15 days. The PRC can make recommendations on policies and they issue quarterly reports.	IA
	Long Beach	<i>Citizen Police Complaint Commission</i> - They receive and investigate police misconduct referring complaints to the Department's IA unit.	IB
	Los Angeles (city)	<i>Office of Inspector General</i> - They review personnel investigations or allegations against the Chief of Police, oversee and conduct audits and review officer shootings.	III
	Los Angeles (co.)	<i>Office of Ombudsman</i> - The ombudsman provides oversight of the Sheriff's Department. They handle complaints for other county agencies and act as mediator. They are appointed by the Sheriff and County Board of Supervisors. The ombudsman is contacted if a complainant does not feel a complete investigation was conducted. They offer mediation but do not have independent investigative authority. Final determination regarding the case is made by LASD.	III
		<i>Office of Independent Review (OIR)</i> - This is a civilian oversight agency that monitors the LA County Sheriff's Department. They ensure allegations of misconduct are investigated and audit ongoing and completed investigations. They have no subpoena power.	III
	Los Angeles (co.) Evaluative & Performance	<i>Special Counsel to LA Board of Supervisors on Kolts Commission Implementation</i> - They monitor the Kolts Commission reform efforts. They issue semi-annual reports on Department progress and have subpoena power as well as access to all records in the department and may investigate a report on any topic bearing liability.	III

Appendix A: Models of Civilian Oversight

State	City	Models of Police Oversight	Category
	Novato	<i>Police Advisory and Review Board</i> - The Board reviews appeals of IA investigations.	II
	Oakland	<i>Citizens' Police Review Board</i> - The Board investigates citizen complaints and hold public hearings. They make findings and recommendations to the City Manager. They have no subpoena power. The nine member board is appointed by the Mayor and the City Council.	IA
	Richmond	<i>Police Review Commission</i> - The nine-member Commission investigates citizen complaints, reviews police policy and hears appeals of IA investigations. They have subpoena power and can recommend discipline. Only reports of excessive force or racial abuse can be filed with the Commission within 45 days of the incident. An investigative officer conducts an investigation and submits findings to the commission. The commission then orders further investigation, forwards it on to the Chief or conducts a public hearing. Appeals may be filed within 10 days.	IA
	Riverside	<i>Community Police Review Commission</i> - This nine member board is a hybrid that monitors and investigates.	III & IV
	Sacramento	<i>Office of Public Safety Accountability</i> - This office monitors the Police and Fire Departments and makes recommendations to the City Manger. They conduct investigations, review and audit Police Department investigations.	III & IV
	San Diego (city)	<i>Citizens' Review Board on Police Practices</i> - The Board reviews complaints and IA investigations, and also evaluates investigations and makes recommendations to Chief and City Manager. They can also review and recommend policies.	II
	San Diego (co.)	<i>Citizens' Law Enforcement Review Board</i> - This Board receives and investigates deaths and complaints. The findings are submitted to an eleven member review board that approves recommendations sent to department heads.	IA
	San Francisco	<i>Office of Citizen Complaints</i> - This office investigates complaints against Police Department staff and has subpoena power. Complaints can also be filed at IA and is assigned to an intake investigator. Mediation is also offered. OCC supervisors review all OCC investigations (complainants and the officer can meet with the investigator to review the process) and there are Chief hearings and Police Commission hearings. The OCC's findings can be overturned by commissioners but not the department. An officer can appeal a Chief's hearing decision.	IA
	San Jose Evaluative & Performance	<i>City of San Jose Independent Police Auditor</i> - The auditor reports to the Mayor and City Council. They accept complaints, monitor investigations, do community outreach and semi-annual reports. If there are disagreements with findings they are sent to the City Manager. Complaints are filed with the IPA or IA within 30 days of incident but complainants can also wait up to a year. The IA investigates while the IPA monitors. The IA sends completed investigations to the Chief and the IPA can request further investigation. The final decision is made by the City Manager.	III

Appendix A: Models of Civilian Oversight

State	City	Models of Police Oversight	Category
Colorado	Denver	<i>Office of the Independent Monitor</i> - The staff of five works with a seven member Citizen oversight board (which evaluates the work of the monitor, holds public meetings, and makes policy recommendations). They review IA investigations and make recommendations on discipline to the Chief. They also publish annual reports.	III
Connecticut	New Haven	<i>Civilian Review Board</i> - The 16 member Board reviews police investigations of complaints which are filed with the Police Department within one year of the incident. Mediation is offered for an informal resolution. The board reviews all completed investigations, and they can recommend further investigation or agree or disagree with the findings. A complainant may file an appeal within 90 days of notification.	II
Florida	Miami (city)	<i>Civilian Investigative Panel (CIP)</i> - The 13 member panel conducts investigations, inquirers into misconduct, and forwards findings to the Chief.	IA
	Miami-Dade	<i>Independent Review Panel</i> - The Panel reviews complaints against any department, investigates complaints and submits findings to the IRP. Findings are discussed at a dispute resolution meeting and the panel's recommendations are sent to the involved department, the county manager, the mayor and commissioners.	IA
	Orange County	<i>Orange County Citizen Review Board</i> - The advisory board reviews citizen complaints after the investigation is completed by the Sheriff's office. Recommendations are made on policy based on findings.	II
	St. Petersburg	<i>Civilian Police Review Committee</i> - The 23 members appointed by the mayor, review internal investigations and report results to the public. They have no subpoena power, do not process civilian complaints and cannot change findings of the IA investigations. They can only make policy recommendations. All complaints are investigated by IA and once the investigation is public record the CPRC reviews the determination made.	II
Hawaii	Hawaii County	<i>County of Hawaii Police Commission</i> - The 9 members appointed by the mayor review the annual budget, make recommendations, and can hire/fire the Chief. They have no subpoena power. Complaints filed with CHPC must be filed within 60 days of the incident. The investigation is done by the commission and a written notice of findings is given to the Chief who retains final authority.	IA
Idaho	Boise	<i>Office of the Community Ombudsman</i> - The ombudsman receives and investigates complaints and shooting incidents. They can make policy recommendations and report to the Mayor and the City Council (no board). They have no subpoena power. Complaints can also be filed with the Police Department within 90 days of the incident. The ombudsman then classifies them based on seriousness. Informal complaints may be investigated by an officer's immediate supervisor, while formals are done by the entity that received the complaint. Appeals must be filed within 30 days and the ombudsman may conduct the investigation.	IV

Appendix A: Models of Civilian Oversight

State	City	Models of Police Oversight	Category
Illinois	Chicago	<i>Chicago Police Board</i> – The board conducts hearings and decides disciplinary cases. They consider appeals from employees, adopts rules and regulations, and monitor compliance with First Amendment rights.	II
Indiana	Indianapolis	<i>Citizen Police Complaint Board and Citizen Police</i> – A 12 member board appointed by the City Council, mayor and Fraternal order of police.	II
Maryland	Prince George	<i>Citizen Complaint Oversight Panel (CCOP)</i> – The seven member board is appointed by the county executive. They review investigations of complaints or deaths and make recommendations to the Chief of Police and County Administrative Officer regarding policy.	II
Mass.	Cambridge	<i>Cambridge Police Review and Advisory Board</i> – The five civilian members are appointed by the City Manager and have subpoena power. Formal complaints must be filed within 60 days of the incident with the PRAB or the Quality Control Department of the PD. If a complaint is filed with the QC it is then forwarded to the PRAB and vice versa. The PRAB conducts preliminary investigations then orders a full investigation. Mediation may be suggested. If a complaint is sustained, then discipline is recommended and sent to the CM. A hearing or review can be requested if the complainant is not satisfied but cannot hear appeals of the QC complaint investigations. They can recommend policies and issue a quarterly report.	II
Michigan	Flint	<i>Flint Ombudsman</i> – The ombudsman is appointed by the City Council and has subpoena power. Filed complaints are assigned to an investigator. Informal complaints may include an IA investigation or mediation. For formal investigations, the complaint is sent to the Chief who must respond within seven days. The investigator prepares a report for the ombudsman who can recommend discipline be imposed.	III
Minnesota	St. Paul	<i>Police-Civilian Internal Affairs Review Commission</i> – The seven members (2 are SPPD officers) of the Commission are appointed by the Mayor and the Chief. A civilian coordinator employed by the Police Department processes complaints from the public. The commission has subpoena power. Complaints can be filed with the commission that then forwards it to the IA. If it is an informal complaint it is not sent back to the commission for review, but if it is formal, they review the IA investigation. They can vote to sustain and on discipline as well as on further investigation. There are no appeals of their findings.	II

Appendix A: Models of Civilian Oversight

State	City	Models of Police Oversight	Category
	Minneapolis	<i>Minneapolis Civilian Police Review Authority</i> - The eleven members investigate and make determinations regarding complaints. They have no subpoena power and a complaint can be filed with either Review Authority or IA (but not both). Mediation can be offered. An RA investigator conducts a preliminary investigation, and once completed, all complaints are scheduled for hearing. Three board members hear a complaint and if sustained the Police Department recommends discipline to the Chief who has final authority. Appeals must be heard within 30 days.	IA
Missouri	Kansas City	<i>Board of Police Commissioners Office of Community Complaints</i> - This office is overseen by the Board of Police Commissioners. They have no subpoena power. Complaints must be filed in person within 90 days of the incident. Mediation is encouraged. A complaint is classified and then sent to IA for further investigation. The OCC then reviews completed investigations and recommends findings. The Director then forwards this to the Chief. The OCC provides final determination for returned analyses. Appeals may occur within 30 days.	III
Nebraska	Omaha	<i>Public Safety Auditor</i> - The auditor provides oversight to citizen complaints against the Police and Fire Departments. They audit investigations, and further investigate IA investigations and quarterly reports. They report to the Auditing committee. They have no subpoena power. Complaints filed at the PD are forwarded to the auditor and the professional standards office. The auditor reviews investigation and the PS forwards the completed investigations to the Chief. An auditor may conduct and internal investigation.	III
Nevada	Las Vegas	<i>Citizen Review Board</i> - The board has subpoena power but no investigative power. They receive complaints and review investigations by the Police Department and the IA. They can make recommendations on policy or discipline.	II
New Mexico	Albuquerque	<i>Independent Review of the Police Oversight Commission</i> - The commission receives citizen complaints and assigns them to an IRO investigator or the IA. Recommended findings are sent to the Chief. They also make recommendations regarding policies and procedures.	II
New York	Albany	<i>Citizens' Police Review Board</i> - The nine member board reviews and makes findings on investigations. They make recommendations to Common Council and the Mayor on policies. Complaints must be in writing and filed (with either CPRB or Department) within 6 months of the incident. Mediation is offered. They receive quarterly updates of investigations from the Chief. Investigation should be concluded within 60 days. If the board is not satisfied, they can seek authorization for an outside investigator. The Chief makes a final determination.	II

Appendix A: Models of Civilian Oversight

State	City	Models of Police Oversight	Category
	NYC B46	<i>Civilian Complaint Review Board</i> - The 13 members of the board receive, investigate, hear and make findings on complaints. They produce semi-annual reports, offer a mediation program, can issue subpoenas, and can obtain NYPD records. Complaints can also be filed with the NYPD. A complaint is assigned to an investigator and their closing report is submitted to Team Management and then to a board panel. Sustained cases are forwarded to the Police Commissioner. To appeal new evidence must be shown.	IA
	Rochester	<i>Rochester Civilian Review Board</i> - The board reviews IA investigations of misconduct, and makes policy recommendations. They have voluntary subpoena power and may return an investigation if not satisfied.	II
North Carolina	Charlotte	<i>Citizens Review Board</i> - The eleven member board reviews appeals of dispositions imposed by the Chief. They have no subpoena power. Appeals must be filed with Clerk's office within seven days of receiving findings. A case is reviewed within 14 days.	II
Ohio	Cincinnati	<i>Citizen Complaint Authority</i> - They investigate allegations, and review and resolve citizen complaints. It is an independent investigative agency led by an executive director with professional investigators.	IV
	Dayton	<i>Dayton Citizens Appeal Board</i> - The board has five voting members and two non-voting members appointed by the City Manager. Appeals must be filed within 30 days of notification of Department's findings. Hearings are public and the board conducts an executive session before a public hearing. They may request further investigation from IA.	II
	Dayton	<i>Joint office of Citizen Complaints (Ombudsman)</i> - The ombudsman is a public official elected by the board. The JOCC oversees all government offices and specializes in receiving and investigating complaints from residences. They have no subpoena power. Complaints can be filed with the ombudsman or the Department (has jurisdiction over complaints filed with the JOCC). The JOCC either investigates complaints themselves or refers them to IA. Mediation is an option. The JOCC does not make findings or recommendations to the Chief or City but to the District Commander. There are no appeals of their recommendations (must file with IA). They can make policy recommendations to the Chief.	IV
Oregon	Eugene	<i>Eugene Police Commission</i> - The 12 member citizen body does not review allegations and inquiries, but are an advisory to the City Council, the Chief, and the City Manager.	II

Appendix A: Models of Civilian Oversight

State	City	Models of Police Oversight	Category
	Portland	<i>Independent Police Review Division</i> - This is an 8.5 staff member and 9-member Citizen Review Committee. They take all citizen complaints, monitors and review IA investigations, conduct specialty audits, and make policy recommendations. Complaints are assigned to an IPR investigator for preliminary investigation then forwarded to the Director. They may be referred to mediation or can also refer to the IA who conducts a full investigation. Results are forwarded to the officer's commanding officer and then to the Chief. Appeals can be filed within 30 days.	III & IV
	Portland	<i>Citizen Review Committee</i> - The CRC is part of the IPR. Members appointed by the City Council. They report to the City Council regarding appeals of citizen complaints and to the IPR regarding policies and procedures. They do not process complaints but rather hear appeals. A request for appeal must be filed within 30 days. If no further investigation is required there is a CRC hearing where they can agree with the findings, deny the appeal or recommend changes. If there is no agreement between the CRC, IA and department it then goes before the City Council.	II
Penn.	Philadelphia	<i>Police Advisory Commission (PAC)</i> - The 15 members are appointed by the mayor. They investigate complaints, and have subpoena authority. Findings and recommendations are forwarded to the Mayor.	IA
		<i>Integrity & Accountability Office (IAO)</i> - They conduct internal monitoring and auditing.	III
	Pittsburgh	<i>Citizen Police Review Board</i> - The seven member board holds public hearings and has no subpoena power. They make recommendations on policy and discipline, and offer mediation.	II
Tennessee	Knoxville	<i>Police Advisory & Review Committee</i> - The seven volunteer members receive, investigate and hear cases and make findings to the Mayor and the Chief. They also make recommendations on policy changes and have subpoena power. Complaints are filed with the executive director of the committee and are forwarded on to the IA Unit or filed with IA. Mediation is encouraged. The ED reviews closed files to see if they are complete and reports to the committee who votes for further investigation. Once satisfied the board reports to the Chief, Mayor and City Council.	IB
Texas	Austin	<i>Office of the Police Monitor</i> - This office monitors IA investigations and can refer cases to the citizen review panel.	III
Utah	Salt Lake City	<i>Police Civilian Review Board</i> - The 14 members have no subpoena power. Complaints are first filed with IA and then the Board within four days. Mediation is not offered. An investigation is initiated with five board members voting for one. The investigator reports to the board and has access to all IA information. The Board makes recommendations to the Chief about discipline. There are no appeals.	II

Appendix A: Models of Civilian Oversight

State	City	Models of Police Oversight	Category
Washington	King County	<i>King County Office of Citizen Complaints (Ombudsman)</i> - The ombudsman investigates complaints, makes and publishes recommendations and can access Sheriff's records.	IV
	Seattle	<i>Office of Professional Accountability</i> - This office conducts internal investigations and recommends strategies and policies. Complaints can also be filed with the Citizen Services Bureau, and are investigated by the OPA investigation unit or line supervisors. The Director then receives the investigation, and those that are sustained are sent to the Chief.	IV
	Seattle	<i>Office of Professional Accountability Civilian Auditor</i> - The auditor is an independent contractor who reviews all complaints and OPA investigations. They are a part-time appointee who is not an employee of the city. He has access to all files and info and has authority only to make recommendations to OPA or the Chief.	III
	Seattle	<i>OPA Review Board</i> - The three members appointed by the City Council, review investigations. They have no subpoena power and do no process citizen complaints, but rather review IA complaint investigations.	II
Wash. D.C.	Wash. D.C.	<i>Office of Police Complaints</i> - This office investigates and mediates complaints. They have subpoena power and make policy recommendations. They are overseen by the PCB. They can investigate complaints received within 45 days of incident. Complaints may be filed with OPC. The Executive Director reviews the document, and if it is in their jurisdiction, the case is given to an investigator who conducts the investigation. Their report is then reviewed by the ED to determine if it should be dismissed. If it is believed misconduct occurred, the complaint is referred to a complaint examiner who makes a decision which is then forwarded on to the Chief.	IV
		<i>Police Complaints Board</i> - The board oversees the OPC. Board members are appointed by the Mayor.	II

***Appendix B: Jerome Report
Recommendations and Status***

APPENDIX B: JEROME REPORT RECOMMENDATIONS AND STATUS

Jerome Report Recommendation (2002)		Independent Review Officer Response (2004)	MGT of America Report (2006)
17	The IRO should periodically audit the availability of complaint forms and the information given to persons to make citizen complaints	Complaint forms were distributed to senior center, libraries, homeless shelters as well as local groups (NAACP, ACLU etc.) A survey indicated that forms were available and it was easy to file a complaint. Forms are on the IRO Website and can be downloaded. Complaints are also accepted in written form.	See Finding and Recommendations 4-2 & 6-6.
17	Changes should be made to the complaint form by adding more specific questions about the location of the incident, the identification of the officers involved, and any injuries. We would also add how the complaint was received and by whom.	The complaint form was modified as recommended by the consultant and POC. The website was up and running and email complaints are also sent to the IRO from the city website. Annual and quarterly reports and other important information is on the IRO website. The POC website came on line a few months ago and has the IRO monthly reports, POC briefings, appeal briefings, and other information online.	See Finding and Recommendation 4-5.
17-18	The APD website should have the complaint form available and also include information about the IRO and the POC linked to their websites.		This Recommendation was accomplished.
18	The IRO should conduct a survey to determine if forms and assistance should be available in other languages.	Complaint forms should be in English and Spanish. A translator/interpreter was contracted for the IRO office for the 1st time who can conduct investigations into complaints by Spanish-only speaking citizens.	See Finding and Recommendations 6-4, 6-5 & 6-6.

Appendix B: Jerome Report Recommendations

Jerome Report Recommendation (2002)		Independent Review Officer Response (2004)	MGT of America Report (2006)
18	The IRO should examine whether there are additional locations at which complaint forms should be available.	The forms are available at sufficient locations throughout the city.	See Finding and Recommendations 4-6 & 6-4.
19	Albuquerque should consider a longer period in which complaints can be filed.	The POC does not recommend any extension of the 90 day time limit for filing a complaint.	The review team found very few complaints that were filed too late and agree with the IRO, although some peer cities have longer periods.
21	APD should document all informal resolutions of complaint in the field. IA and the IRO should be notified of the complaint and of the resolution, so they can be sure that serious complaints are appropriately handled. APD and the IRO should review this process and depending on the results, should consider eliminating the distinction between formal and informal complaints	No informal feed back was received from APD and it was not believed to have any formalized system for capturing information from informal citizen complaints. This should be done and may require legislation.	See Finding and Recommendations 4-6 & 6-3.
21	The person fielding the complaint call should complete the written complaint form, which should then be treated as any other complaint and investigated as appropriate.	The IRO office has assisted citizens in writing their complaints where citizens needed it.	See Finding and Recommendation 4-6
21	APD should consider a confidential hotline.	The current union contract requires that all complaints be in writing and given to the officer. While there should be a hotline, the Police Oversight Ordinance and the union contract would have to be changed. It would also require additional resources.	We do not agree with the interpretation of the current union contract see Findings and Recommendation 4-6.

Appendix B: Jerome Report Recommendations

	Jerome Report Recommendation (2002)	Independent Review Officer Response (2004)	MGT of America Report (2006)
24	The IRO should consider using mediation to a greater extent, and set up a system whereby the success of mediators can be evaluated and tracked.	In the first 6 months of trying to set up a system of mediation it was found that complainants did not want to mediate their complaints. In every case where the complainant agreed to mediate, the officer also agreed and the complaint was resolved. Complainants also showed they were overwhelmingly opposed to mediation. Currently investigators from the IA and IRO office attempt to mediate cases, and several have been successfully done in this manner. Another obstacle is the opposition from the police union that advises officers not to participate. There is not a recommendation for voluntary mediation or compulsory mediation at this time.	See Finding and Recommendations 4-2 & 4-4.
25	IA should draft an investigative manual that addresses the significant activities that should be undertaken in an administrative misconduct investigation and include the use of investigative activity logs and checklists.	The IRO and IA offices use checklists for the investigations.	This Recommendation was accomplished.
28	The city needs to clarify policies regarding timelines for investigating misconduct and imposing discipline. The APD should allow 90 days for an investigation, with a possible 30 day extension from the Chief of Police, and another 30 days for the review process. The city should clarify whether the IRO review or a POC appeal is counted in the 30 day review process.	Complaint forms are in English and Spanish. A translator/interpreter was contracted for the IRO office for the 1st time who can conduct investigations into complaints by Spanish-only speaking citizens.	This Recommendation was accomplished. See APD SOP 3-43-2 (I)

Appendix B: Jerome Report Recommendations

Jerome Report Recommendation (2002)		Independent Review Officer Response (2004)	MGT of America Report (2006)
28	It should be clarified that discipline can be imposed in sustained investigations that take longer than the 90 day deadline for investigation.		
31	The APD should conduct a study to determine if the schedule of sanctions has achieved their goal of ensuring the "fair and consistent" application of discipline.	The Chief has not provided the POC a report with the study of sanctions to determine if the sanctions are meeting their goals. This may require legislation.	The APDs Inspections Unit may be directed to accomplish this per SOP 3.42.5 but MGT did not address it in this review.
32	IA should develop standards for documenting CPC activities occurring after investigations.	The IRO office and IA officer have separate systems for tracking the complaints investigated.	This recommendation was accomplished. The IA commander developed a system to track all CPC's through the Appeals process.
34-35	Both IA and IRO did not always conduct a thorough interview of witnesses, seek out additional potential witnesses who might support the complainant's allegations, or obtain appropriate records.	It is not required that every case have an interview of every witness. Some cases have audio and video recordings of complaint. It is required that the complainant be interviewed in all cases.	MGT agrees with the IRO and there were no concerns about this issue expressed during interviews with the IRO or IA. MGT's review of cases and IRO interview process appears sufficient.

Appendix B: Jerome Report Recommendations

	Jerome Report Recommendation (2002)	Independent Review Officer Response (2004)	MGT of America Report (2006)
37	Both IA and IRO appear willing to pass judgment on the credibility of complainants but not on the credibility of officers.	There have been comments on the credibility of both complainants and officers in appropriate cases and where warranted by the evidence.	This issue was not This criticism is not uncommon in IA investigations Appropriate oversight by the POC and APD appears in place to ensure that only facts are considered when determining the findings in IA and IRO investigations, but MGT did not address this issue in the review.
38	IA did not always identify or investigate all the SOP violations alleged in the complaint, or investigate "misconduct not alleged in the complaint."	Some discretion needs to be used to list those SOP's which reasonably capture the complaint. When IA has not cited appropriate SOP, they are added.	MGT agrees with the IRO's response.
38	While most files contained the necessary photographs, they were often not dated or adequately marked.	Evidence is properly marked and findings are used consistently as required by the definitions in the SOP.	This issue was accomplished as noted by the IRO. A complete review was not within the scope of services for this evaluation.
39	The IRO issue of the "exonerated" finding is inconsistent with the standard definition of "exonerated."		This is no longer an issue according to the IRO and IA but was not within the scope of services for this review.
42	The IRO term should be defined in the Police Oversight Ordinance as at least two years and the Mayor may extend this contract upon the recommendation of the POC.	The next IRO contract should be given a contract for 3 years with an option to renew. The ordinance should be amended to reflect this requirement.	See Finding and Recommendation 6-8.

Appendix B: Jerome Report Recommendations

Jerome Report Recommendation (2002)	Independent Review Officer Response (2004)	MGT of America Report (2006)	
44	The IRO staff investigators should be eligible for and included at the APD's expenses in any investigative training that the APD conducts or to which it sends its IA sergeants.	A budget has been requested for training in FY 2005. Training for investigators has been approved for investigators and attendance by the IRO and POC at the National Association of Civilian Oversight of Law Enforcement conferences annually. Other budget requests are pending.	This Recommendation was accomplished.
44	Albuquerque should establish minimum criteria for hiring the IRO and IRO investigators.	The current IRO job description is satisfactory.	This Recommendation was accomplished.
45	The IRO should complete a checklist for each IA file reviewed noting whether the complainant was interviewed, all other relevant witnesses were interviewed, the IA file contained the necessary reports and documents, and the IRO's conclusions regarding the soundness of IA's finding.	Checklists have been done and each investigation has a checklist.	This Recommendation was accomplished.
47	The IRO should place greater focus on whether there are tactical concerns related to shootings rather than focusing on whether the shooting was legally justified.	The POC is formally briefed at their televised meetings on the facts and findings in police shooting cases. Recommendations are made on tactical issues and policy changes. These do not occur until over a year or two later because the investigations are not sent to the IRO until after the criminal investigation and review by IA.	This Recommendation was accomplished in part. The length of time to investigate shootings is discussed in Chapter 9 "Police Shootings".
48	When the IRO recommends policy changes as a result of CPC reviews, they should be documented in a separate file, and specifically track the APD's response. A discussion of these files should be included in presentations during regular POC meetings.	Policy issues recommendations are made, but APD does not provide any feedback to the IRO. When the POC puts those issues on their agenda, APD responds verbally at the meetings. An amendment requiring APD to respond to the IRO's recommendations may be necessary and is included in the pending legislation.	See commendation on IRO and policy review board in Chapter 8.

Appendix B: Jerome Report Recommendations

Jerome Report Recommendation (2002)		Independent Review Officer Response (2004)	MGT of America Report (2006)
51-52	There has been no efforts to perform additional audits of the IA process, the IRO has not conducted any review of the APD training, the IRO has not collected and analyzed use of force information from the APD or evaluated the APD's efforts itself to analyze use of force statistic, nor has the IRO audited or asked the IA unit to audit the use of force reporting system or the early warning system. The IRO should develop plans for more systematically addressing and identifying these and other APD policy issues.	The POC and IRO have requested to hire an additional investigator so the IRO office will be able to investigate almost all the citizen complaints. This does not take any additional time for the IRO since he reviews all investigations regardless of whether IA or the IRO conducts the investigation. The IRO review of police shootings is the most important part of his job. All uses of force are not being reported and this is critical to the early identification of problem officers. All officers should be required to report any use of force by any officer that they observe or participate in.	See Chapter 8 "Policy Review Board" and "Use of Force Reporting" Findings and Recommendations.
51-52	The IRO has not attempted any systematic analysis of the APD tort claims, not has it reviewed the Risk Management report prepared by the risk management personnel assigned to the APD and the IRO has not done any surveys or focus groups of complainants after disposition of their complaints to assess their satisfaction with the process. The IRO should develop plans for more systematically addressing and identifying these and other APD policy issues.	The IRO must work through the POC to initiate any policy issues or get responses from APD. The City Council would have to expand the role of the IRO to include policy matters to effect the consultant's recommendation.	See Finding and Recommendation 8-8.
52	Risk Management reports should be provided to the IRO for its review, along with individual notices of tort claims. The Independent Review Officer will then be in a better position to participate on the Claims Review Board and address any trends in police misconduct reflected in the tort claims.	The IRO and POC reviewed the Risk Management Data and determined the mayor's policy of no settlements was working very well up to this point. Officers need additional training and equipment among other things to ensure the city continues to fair well in litigation.	Risk Management data is currently provided to the IRO and APD's IA Unit, trend analysis however is not being conducted. See Chapter 8 "Risk Management" Finding and Recommendation 8-8.

Appendix B: Jerome Report Recommendations

Jerome Report Recommendation (2002)		Independent Review Officer Response (2004)	MGT of America Report (2006)
53	The IRO should participate more in developing the POC agenda on policy matters.	Policy issues have been successfully addressed, including the need for legal opinions to ensure the Police Oversight Ordinance is being properly followed.	This is being accomplished through the POC's Long-Term Planning Committee (LTPC).
55	There should be a link to the IRO on the APD's Website.	The city has a direct link from their website to the IRO Website and complaint are often received directly via this email link. The IRO Website also has the quarterly and annual reports	This recommendation was accomplished
55	The IRO should utilize the media in disseminating quarterly reports and any studies or other analyses it undertakes.		The use of the Web Site to disseminate reports etc. is effective and cost efficient. This recommendation was accomplished.
55	The IRO should put its quarterly and annual reports on its website.		This recommendation was accomplished
58	POC members would benefit from additional training and an orientation for new members. Members should observe Police Academy use of force training and participate in a firearms simulation training session. New members should be invited to IA for a presentation on IA procedures and the APD SOPs. The IRO should brief new members on IRO procedures and the IRO office.	POC members received training on the use of force and procedures used by APD. They participated in FATS training and voted to require at least two ride-along per year. The IRO has recommended that they attend the Civilian Police Academy.	See Findings and Recommendations 5-3 and 5-4
58	POC members should go on ride-alongs as a method of outreach to rank and file police officers and education of POC members.		See Findings and Recommendation 5-3 and 5-4

Appendix B: Jerome Report Recommendations

Jerome Report Recommendation (2002)		Independent Review Officer Response (2004)	MGT of America Report (2006)
61	Appeals hearings portion of POC meetings should not be televised.	The IRO does not agree with this recommendation. These hearings are one of the primary means of outreach and citizens can see that the POC is fair and impartial. The POC does not need subpoena power or to mandate the officer's appearance as long as the POC can be provided a summary of the officer's compelled statements to the investigators.	The majority of people interviewed support the IRO's position and there were no compelling reasons to change.
61	Appeals hearings should be closed but the results should be reported at a regular POC meeting.		MGT does not support this recommendation. It may require a review of New Mexico Open Meeting Laws and POC Ordinance. Most importantly, it may have a detrimental effect on the public's confidence in the POC process.
62	If the number of POC appeals increases significantly, they should consider using rotating panels of 3 members of the oversight board to hear individual appeals rather than the full board.	This would require a change to the ordinance and is not necessary at this time. The number of appeals is currently manageable.	This recommendation was not addressed in this report because we agree with IRO and because MGT felt it limits the benefits of the diversity of the Commission if only a panel of 3 were to hear an appeal.

Appendix B: Jerome Report Recommendations

Jerome Report Recommendation (2002)		Independent Review Officer Response (2004)	MGT of America Report (2006)
62	The POC should have access to the complete IA/IRO investigative file, including the statements of APD officers, complainants and witnesses.	This is not necessary at this time, it would have significant legal issues to resolve before it could be implemented.	MGT agrees with the IRO. POC members interviewed were of the opinion that the information provided by IA and the IRO in appeals was sufficient to make a decision and Limited subpoena power was included in the recently adopted POC Rules and Regulations.
63	It is not recommended that the Ordinance be amended to add subpoena authority at this time.	Subpoena power is not necessary at this time as long as the POC is provided summaries of the officers' compelled statements.	Limited subpoena power was included in the recently adopted POC Rules and Regulations.
64	Albuquerque should consider giving POC the authority to remand an appeal to IA with the direction that they gather statements that the POC would otherwise subpoena.	The POC has the inherent authority to remand appeal for further investigation and the IRO does not believe an amendment is needed.	Not addressed in this review. MGT agrees with the IRO.
64-65	There is no disadvantage to allowing the POC to make recommendations to the Chief on discipline, consistent with the APD's Schedule of Sanctions as the Ordinance now allows.	The POC has the authority and responsibility to recommend discipline to the Chief and CAO when appropriate. The IRO does not believe an amendment is needed.	MGT agrees with the IRO.
65	The IRO should periodically contact complainants who do not show up at their POC appeals to find out why they did not appear.	Fewer appellants failed to show up for their appeals in 2003 than in the previous 3 years, and is attributed to sending them the public record before they appeal. There will always be some who do not show up for appeals, but the IRO does not believe they need to contact appellants to ask them.	See Finding and Recommendations 6-4, 6-5 & 6-6.

Appendix B: Jerome Report Recommendations

Jerome Report Recommendation (2002)	Independent Review Officer Response (2004)	MGT of America Report (2006)	
68	The public comment feature should be retained but the POC chairperson should have greater discretion to limit comments to a reasonable time period, and to those that directly relate to the APD and the POC.	The POC changed the public comment feature and it is working very well.	This recommendation was accomplished. The POC limits public comment for the most part to only 3 minutes.
70	The POC should increase its emphasis on policy evaluation, analysis of police training, and patterns or trends in complaints or use of force. We recommend that the IRO prepare a list of topics to evaluate and a schedule for evaluation.	The POC should increase its emphasis on policy issues, especially use of force trends.	MGT agrees with the original recommendations, see Recommendation 6-4.
72	The POC should not be given subpoena power or final authority over discipline, making it the "personnel board" for the APD.	The IRO does not support subpoena power at this time as long as the POC receives summaries of the officers' compelled statements.	MGT agrees with the statement and did not address it in this review.
76	Shooting investigations should not be conducted by the POC or the Iron instead of the APD because the APD has the capabilities and expertise to conduct shooting investigations while the others do not.	The IRO has been formally presenting the results of the investigations into police shootings to the POC. The POC is currently looking at how the process of getting these investigations to the IRO can be expedited. APD and the DA need to complete their actions sooner, so the time from the police shooting and presentation is not such a long time from the date of the incident.	These recommendations are being followed as noted by the IRO. The need to expedite investigations is discussed further in Chapter 9 "Police Shootings."
76	The IRO should present its conclusions on shooting reviews to the POC, allowing the POC to monitor shooting investigations as required by the Police Oversight Ordinance.		This Recommendation was accomplished.
76	The IRO should review the reports of the SIRT, and report to the POC its conclusions regarding their recommendations.		MGT agrees with the original recommendations, but did not address it in this review.

Appendix B: Jerome Report Recommendations

Jerome Report Recommendation (2002)	Independent Review Officer Response (2004)	MGT of America Report (2006)	
76	The POC should address APD's policies and practices relating to the use of deadly force, including officer training, types of weapons officers use and any patterns or trends in firearm discharges.	The POC is looking at use of force trends. Shooting deaths have increased to five each for 2001, 2001, and 2003.	MGT agrees with the original recommendations, but did not address it in this review.
77	In July 2000 APD issued a roll call training bulletin regarding deadly force issues and shooting at motor vehicles. This noted the dangers of shooting at motor vehicles.	APD has improved their policies on shooting into motor vehicles and implementation of the CIT training. I would like all officers to be CIT trained. This would improve their handling of all citizens, not just those with mental health issues.	See Finding and Recommendations 8-9 and 8-10.
78	In 1997 APD established and implemented a Crisis Intervention Team, whereby officers are specially trained to intervene with mentally ill or other citizens in crisis who are at risk of injuring themselves or APD officers.		MGT agrees with the statement.
81	APD management recognizes and appears to want to address the shortcomings of the early warning system. These shortcomings reflect not a lack of commitment but a lack of resources.	The early warning system is critical to the identification of officers who may improperly use force. This system needs to be sufficiently funded to create and maintain an adequate system. Currently a volunteer is responsible for this system.	See Chapter 8 "Early Warning System" Finding and Recommendations.
85	Risk management reports should be made available to the IRO and POC.	The IRO gets all claims against the city. The POC reviewed the Risk Management data.	This Recommendation was accomplished.
86	APD should establish a liaison with the DA's office and the courts to track criminal cases that are dropped due to bad reports, misconduct, or illegal searches.	The APD liaison to the DA should track all cases that are dropped due to misconduct or illegal searches and inform the IRO. This may require legislative action.	MGT agrees with the original recommendations, but did not address it in this review.

Appendix B: Jerome Report Recommendations

Jerome Report Recommendation (2002)	Independent Review Officer Response (2004)	MGT of America Report (2006)	
86	The APD should track resisting arrest and assault on police officer charges to ensure that the use of force involved in such incidents are appropriately reported and investigated.	I concur that APD should track resisting arrest and assault of police officer charges to ensure the use of force involved is investigated. The IRO should be provided this information also. This may require legislation.	See Chapter 8 "Early Warning System" Finding and Recommendations.
87	The APD, in conjunction with the POC and perhaps a local university or research organization should conduct surveys of whether the POC and IRO have helped to strengthen the relationship between the community and police, public confidence in police oversight and complainant satisfaction.	The IRO would like to assist in the surveys and questions asked in these surveys to obtain this information.	See Finding and Recommendation 6-6.
87	Complainant surveys should examine whether they feel their complaints were fairly addressed and investigated, whether they were able to express their concerns and whether they feel they contributed to holding APD accountable.	The IRO has conducted surveys of complainants in 2003 and they are pleased with the fairness of the process and the investigations.	See Finding and Recommendation 6-6.
87	The City should consider whether all complainants should receive the IRO's review letter that provides more information about the investigation and the basis for APD's findings.	All complainants receive the detailed IRO public record letter. The ordinance should be amended to reflect that the IRO will provide this letter to all complainants. This is included in the pending legislation.	See Finding and Recommendation 6-7.

*Appendix C: Appeal Processes
in Other Cities*

APPENDIX C: APPEAL PROCESSES IN OTHER CITIES

City	Original Decision	Who Can Appeal?	# Of Days To Appeal?	Who Hears The Appeal?	Necessary Evidence?	Possible Outcomes?	Additional Appeals?
Austin, TX	Police Monitor	Compliant can request Police Monitor refer a case or monitor can directly refer certain cases	30 days	Volunteer Citizen Panel	No	Panel may recommend: <ul style="list-style-type: none"> - further investigation - policies warrant review - an independent investigation is warranted - a written non-binding rec. on discipline 	No
Albany, NY	Citizen's Police Review Board	No process	No process	No process	No process	No process	No process
Berkeley, CA	Police Review Commission	Complainant, officer	15 days		Must have new evidence to consider appeal		
Boise, ID	Office of Community Ombudsman		30 days	Ombudsman		New investigations are conducted and dispositions are reviewed by the Chief	
Cambridge, MA	Police Review and Advisory Board	Complainant		Full Board		Board votes to hear or review a case	
Charlotte, NC	Citizen's Review Board	Complainant	7 days	Citizen's review board		Recommendations are sent to the city manager and Police Chief	
Dayton, OH	Citizens Appeal Board	Complainants	30 days	Board		A further investigation can be requested or findings are issued to the Chief	
Dayton, OH	Joint Office of Citizen Complaints	Complainants		Internal affairs			
Kansas City, MO	Board of Police Commissioners Office of Community Complaints	Complainants, officers	30 days	OCC Director		Can only appeal findings, not actions	

Appendix C: Appeal Processes in Other Cities

City	Original Decision	Who can Appeal?	# of days to appeal?	Who hears the appeal?	Necessary evidence?	Possible outcomes?	Additional appeals?
Los Angeles County, CA	Office of the Ombudsman	Complainant		Ombudsman		Either original findings were appropriate or appeal is referred back to LASD to review or investigate further	
Minneapolis, MN	Civilian Police Review Authority	Complainant	30 days	Full Board	New evidence is reinvestigated	Sustain or reject original decision by review authority officer, Chief makes the final decision	
New Haven, CT	Civilian Review Board	Complainant	90 days	Full Board		Board agrees or disagrees with original findings, refers for further investigation, or refers to the Chief for action	
New York, NY	Civilian Complaint Review Board	Complainant		Original investigators	Complainant needs to present new info	Investigator makes recommendations to the board	
Omaha, NE	Office of the Public Safety Auditor	Auditor		Auditing committee			
Portland, OR	Citizen Review Committee	Complainant, officer	30 days	CRC and Independent Police Review		CRC can hold a hearing and agree with the Bureau or recommend changes	
Richmond, CA	Police Commission		10 days	Commission		Can order a full investigation or make recommendations	
Salt Lake City, UT	Police Civilian Review Board	Cannot be appealed	Cannot be appealed	Cannot be appealed	Cannot be appealed	Cannot be appealed	Cannot be appealed
San Francisco, CA	Office of Citizen Complaints	Officer					
St. Paul, MN	Police-Civilian Internal Affairs Review Commission	No appeals	No appeals	No appeals	No appeals	No appeals	No appeals
Albuquerque, NM	Police Oversight Commission	Complainant	10 days	POC	New evidence may be accepted	Can modify original findings	Can appeal 1st appeal to CAO

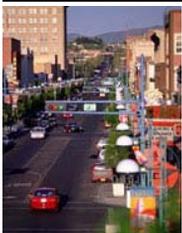
Appendix D: Summary of Recommendations

APPENDIX D: SUMMARY OF RECOMMENDATIONS

Rec. Number	Recommendation
4-1	Develop a brochure to include with the public letter record that defines in plain language the terms used to explain the outcome of the investigation of the CPC to the complainant
4-2	Enhance outreach efforts to complainants and potential complainants to encourage the use of mediation.
4-3	Include “successfully mediated” as a complaint disposition category.
4-4	Develop a SOP in collaboration with IA that establishes a process and criteria for mediation.
4-5	Change the CPC form to include more forced blocks to provide additional detailed information about the location, offices, and injuries involved in the alleged conflict.
4-6	The IRO should not dismiss (inactivate) unsigned complaints and at a minimum should conduct a preliminary investigation if the allegations are serious and the facts can be established.
4-7	Extend the deadline for citizens to file appeals from ten business days to 30 calendar days.
5-1	Amend the Police Oversight Ordinance to include any language that was unintentionally omitted during the amendment process.
5-2	Remove term limits on POC members.
5-3	Create an orientation program for new members.
5-4	Monitor and track POC member attendance at all training and ride-along events to ensure compliance with the ordinance.
5-5	Amend the Police Oversight Commission’s Rules and Regulations to clarify if the references to the IRO in sections 8 and 9 include the IRO staff.
6-1	Hire additional investigators.
6-2	Assign all CPCs to the IRO to investigate.
6-3	Establish criteria for CPCs that will be handled by the IRO and those that will be referred to IA.
6-4	Develop a strategic plan for community outreach in collaboration with the long-term planning committee (LTPC) and provide updates in quarterly and annual reports to the POC.
6-5	Team up with the city’s Vietnamese Task Force to evaluate the community’s understanding of the POC and IRO processes, and determine outreach needs.
6-6	Conduct complainant surveys on an on-going basis, but seek ways to increase the number of responses and increase the depth of analysis.
6-7	The Chief of Police and the Chair of the POC should take advantage of existing resources to request legal reviews of public letters of record as needed.
6-8	Revise the ordinance to extend the IRO contract time-period to more than a two-year contract as currently required.

Appendix D: Summary of Recommendations

Rec. Number	Recommendation
7-1	Develop criteria that establish the minimum and maximum length of time the IA commander may work in that assignment.
7-2	Develop criteria for sergeants selected to work in IA that requires experience as a supervisor.
7-3	Document informal complaints in the EWS.
7-4	Move the responsibility of auditing of informal complaints from IA to the Inspections Unit and include in the audit program a review of SOPs, supervisors' reporting, and documentation by IA.
7-5	Reexamine the need for additional investigators in IA.
7-6	Consider limiting IA's investigations to "T"s only.
7-7	Change the quarterly and annual report format to address all IA reporting requirements as delineated in SOPs.
7-8	Ensure the process for investigating Captains and above is included in the department's SOP's.
8-1	Replace IA's EWS tracking spreadsheet software with "off-the-shelf" IA software that assists with the comprehensive analysis of data and the generation of reports.
8-2	Include the tracking of resisting arrest and assault on police officer data in the EWS.
8-3	Review the function of the EWS review panel (SOP 3-49) to ensure it is being utilized as required by the SOP.
8-4	Modify the number of EWS entries, which an officer may receive before recommending intervention from an arbitrary set number to more a statistically valid number based the deviation from a standard or norm for the area and the shift each officer works.
8-5	Assign the APD's Inspections Unit to audit UOF reporting.
8-6	Issue the "APD Sergeant Reference Guide" in a training for all lieutenants and sergeants.
8-7	The APD should task the training committee to review this issue and coordinate in-service training for all supervisors (lieutenants and sergeants) that addresses information contained in the Sergeant Reference Guide and IA section of the OJT program.
8-8	Develop a process for monitoring and analyzing tort claim and law suit data that involves the City Attorney's Office, Risk Management Office, IRO, and IA.
8-9	Assign the Inspections Unit to conduct an audit of officers' SOP manuals.
8-10	Distribute SOPs electronically to all APD staff.
8-11	Assign the Inspections Unit to audit briefing training to ensure that the training developed is being distributed properly to the field.
8-12	Include training about civilian oversight of policing agencies in the APD curriculum.
9-1	Revise APD SOPs to include the multi-agency task force and protocols identified in the "Law Enforcement Involved Fatalities/Great Bodily Harm" MOU.
9-2	Establish a process and time that that officers will be placed on administrative leave following a shooting incident.
9-3	Include a discussion of the Behavioral Sciences Division Staff Psychologist protocol for officer involved shootings in SOP 2-31.
9-4	Expand the Critical Incident Review Board to conduct inquiries and make recommendations for officer involved incidents resulting in death or great bodily injury.
9-5	Reduce the time it takes APD detectives and the DA take to investigate officer involved shootings and make a legal determination



As prepared by
MGT of America, Inc.
502 East 11th Street, Suite 300
Austin, Texas 78701
(512)476-4697 (T)
(512)476-4699 (F)
www.mgtofamerica.com (W)