Report on the Activities of the Ad Hoc Police Oversight Task Force

Prepared for the City Council of Albuquerque in Conformance with Resolution 13-143

Part 1: Introduction

The purpose of this document is to report the activities and recommendations of the Police Oversight Task Force (POTF) to the City Council of Albuquerque (CCOA). The document has three basic aims. The first aim is to document the creation of the POTF by the CCOA and the subsequent selection and backgrounds of the community members that served on it. The second is to recount the primary actions of the POTF during its meetings and deliberations from August 20, 2013 to January 29, 2014 and to transmit pertinent materials and information used in them. The third aim is to formally present the recommendations adopted by the POTF as well as other proposals, suggestions, and considerations considered important enough by the task force to be included in this report.

The document is divided in four parts or sections. The first part is this *Introduction,* which lays out the purpose of the document and orients the reader to what will follow. This part does not serve as an executive summary but does serve as a roadmap to help guide the reader. The second part is the *Background* of the POTF leading to its recommendations. This part includes the POTF's formation and its plenary public meetings and hearings, as well as the meetings of its standing and ad hoc committees. The third section of this report is an *Overview of the Police Oversight Process* (POP) *Study,* which is the primary focus of the POTF and the offices which it has examined in its considerations. These offices include both the Police Oversight Commission (POC) and the Independent Review Office (IRO) and, to a lesser degree, the Albuquerque Police Department's (APD) Internal Affairs Unit (IA). In addition, because it was primary information used in POTF study and deliberations, this section covers previous reports on the CCP commissioned over the years by the City of Albuquerque (COA) and examines the disposition of the recommendations in these reports. The fourth part of the report, and the most important, is the set of *Recommendations* developed by the POTF for the CCOA and other considerations that were deemed of sufficient import to be included. These recommendations and other matters are the chief work of the POTF.

The narrative parts of this report are a compendium of the work of the POTF. Therefore, description is kept to a minimum and seeks to summarize principal inputs, actions, and outputs of the task force while completing its work. In order to substantiate this description, all sections of the report make reference to and are backed up by a set of appendices. These appendices

are the bulk of the report. In the main, these appendices comprise the inputs into the reflections of the POTF such as requested research, other reports, or presentations from scheduled speakers; however, they also encompass the outputs of the POTF meetings and workings including agendas, minutes, and plans as well as the number, scope, and duration of the various task force meetings as recounted in agendas. In addition, these appendices present summaries of public input at public hearings or town halls, which were held by the POTF as mandated by the CCOA. These latter documents are presented both in analyzed and raw form so that the reader may check analysis against comments.

Part 2: Background

As indicated by this document and prior reports, the COA (POP) embodied in the Citizen Police Complaint Process (CPCP) has been the subject of study for improvement for nearly twenty years. The current notice of the process, resulting in a CCOA resolution forming the POTF, took place over a year in which the press paid considerable notice to issues raised about the POC and its operations (see Appendix A: Albuquerque Journal Clippings on the POC). On the one hand, the POC handled particularly delicate matters such as appeals of IRO investigations, one into the shooting of an Iraq war veteran by the APD. On the other these issues included allegations of conflict of interest on the part of a POC member, violations of the New Mexico Open Meetings Act (OMA) and subsequent lawsuits on that matter, as well as longstanding vacancies on the POC which the CCOA did not fill.

A. City Council Action

In response to the foregoing events, the initial CCOA action was to consider an ordinance to suspend the POC and its operations (O-13-51). This ordinance failed with three for and six against. Nevertheless, subsequent CCOA action (F/S R-13-143) recognizing "recent events have eroded the public's faith in the police oversight process and … that the process needs to be reevaluated and changed if necessary," resulted in the formation of the POTF (see Appendix B: Resolutions).

On May 20, 2013 the CCOA passed unanimously 8-0 with one member (Harris) excused, a resolution to form an "ad hoc" POTF (see Appendix B: Resolutions). The resolution further indicated that the POTF was to have eleven members with various specified specialties and that it was to complete its work by the end of December 2013 (Subsequently extended to January 31, 2014 by another resolution R-13-143). This resolution not only initiated the POTF but charged it with two main duties. The first was to evaluate the present CPCP and "report back to the CCOA with its recommendations for improving the police oversight process." In so doing the resolution specified that, among other things, the POTF should review the prior reports on the POP reviewed in this report. The second duty was to mandate that the POTF hold at least three "Town Hall" meetings throughout the city to "…encourage [the public] to provide comments or suggestions for improving the police oversight process." In addition, the resolution provided an appropriation of up to fifty thousand dollars to fund the POTF in its sessions and deliberations.

B. Task Force Formation and Meetings

The first task in implementation of F/S R-13-143 was to recruit, select and qualify the task force members specified in the resolution. Once selected and appointed by the CCOA the POTF then needed to organize itself and its work in order to perform both its regular business and complete its study of the POP. After the POTF kicked off its review work, scheduling supporting activities, deliberating on the issues brought up by members, and taking both formal action and conducting informal efforts occupied the bulk of its time.

1. Selection Process

To implement resolution F/S R-13-143, CCOA staff acted to develop and post the announcement and an application on the CCOA website to recruit citizens to serve on the POTF. In addition, a press release was developed to obtain press involvement in publicizing recruitment for the eleven positions required for the task force. Also, a press release was sent to the Albuquerque Journal resulting in an article publicizing the recruitment of members (See Appendix C: Journal Coverage). This strategy for promotion proved successful as one hundred and eleven people applied for the various specific positions (See Appendix D: Application). Ultimately, eleven members with the specified backgrounds and qualifications were identified and then selected to serve on the POTF.

- Ralph Arellanes, Non-profit advocacy member
- Frances Armijo, Community at large member
- Fabrizio Bertoletti, Governmental efficiency member
- Hans Erickson, Investigative/prosecutorial member
- Nancy Koenigsberg, Non-profit advocacy member
- Andrew Lipman, Community at large member
- Craig Loy, Community at large member
- Edmund Perea, Retired from APD member
- Peter Simonson, Civil liberties member
- Alan Wagman, Community at large member
- Leonard Waites, Community at large member

As indicated by the foregoing, the members selected represented a diverse cross section of the community. In addition, they filled the requirements of professional and other specialties required by F/S R-13-143 (see Appendix E: Members and Bios). With membership selected and members agreeing to serve, the POTF was able to begin to carry out its duties[1].

2. Task Force Meetings

The POTF began its deliberations on August 20, 2013 holding its organizational meeting in the Council Committee Room at the COA City Hall. Ten members were present and one joined the meeting by teleconference. As its first order of business, the POTF elected a Chair,

[1] Mr. Waites was appointed after Ms. Julia Kennedy resigned on October 30, 2013 (See Email in Appendix I: Documents and R-2013-133 POTF in Appendix B: Resolutions). Mr. Waites participated in all deliberations on recommendations.

Andrew Lipman and Vice Chair, Hans Erickson who then presided at that and subsequent meetings. As a way to underscore its commitment to openness in its deliberations, the POTF elected to hear public comment at all of its regular meetings.

As provided under OMA (mandated for the POTF by F/S R-13-143), all POTF meetings and agenda were duly noticed by publication on the CCOA website and copies provided to the public at each meeting. Likewise, meeting minutes were made available to the public both on the CCOA website and at regular meetings of the task force. Additional documents produced or considered by the POTF were both posted on the CCOA website and made available to the public at meetings. These included the prior studies of the POP considered by the POTF and covered in this document under Part 3, b. Prior Studies and Reforms of the CPCP below.

Thirteen regular meetings of the POTF were held (See Appendix F: List of Meeting Dates, Places and Times). Regular meetings of the POTF were used to conduct its routine business. This routine business included hearing public comment at each regular meeting. As well as hearing public comment, the routine business included regular parliamentary actions under Roberts Rules of Order (as mandated by F/S R-13-143). These actions covered organizational items such as adoption of the current session's agenda (See Appendix G: Agenda), approval of the minutes of the previous meeting (See Appendix H: Minutes), and setting future meeting dates and times.

Also, other particular business actions took place at the POTF regular meetings such as planning work and adopting resolutions or other motions that were introduced by POTF members or that were developed and introduced by subcommittees (See below 4. Task Force Subcommittee Meetings). For example, the POTF adopted a Work Plan or Roadmap which was used to guide its work to completion (See Work Plan in Appendix I: Documents) and that provided an initial, illustrative outline for this report. As another example, the POTF discussed and approved a communication to the CCOA expressing concern about the potential impact of the APD and Albuquerque Police Officers Association (APOA) contract negotiations in developing and adopting the recommendations contained in this report (See Memo in Appendix I: Documents).

As contemplated in F/S R-13-143, the POTF also heard testimony from Subject Matter Experts (SME) or other speakers invited to present information to it (See Appendix J: List of Speakers). In all, the POTF invited and heard from ten presenters during the course of its deliberations. Those presenting included the current Chair and Vice Chair of the POC, several sitting POC members, the IRO, representatives of APOA and APD/IA, and the lead author of the 2011 MGT report. As a rule, follow up questions were posed to the SMEs by POTF members and some SMEs were invited to return for additional testimony or to answer additional questions.

In addition to its routine and particular business actions taken at its meetings, the POTF also held a facilitated process for development and adoption of recommendations. The employment of facilitation was due to the recognition by the POTF members of the difficulty of

gaining broad agreement on a specific set of recommendations for the CCOA given their divergent background, experience, and points of view. Therefore, during six regular POTF meetings from December 4, 2013 through January 21, 2014, time was set aside for facilitated interaction by the POTF and approximately eighteen hours of meeting time were devoted to the facilitated process to develop and gain agreement on recommendations. During this facilitated process the rules were suspended, binding votes were not taken, and the chair did not preside over the meeting. Rather, the facilitated process was led by an outside facilitator, Mr. Timothy Karpoff, brought in for the purpose of assisting the task force to clarify broad goals and then to focus on specific areas of agreement. This process resulted in the recommendations included in this report in Part Four.

3. Task Force Town Halls

As well its regular meetings, the POTF held three "town hall meetings" as required by F/S R-13-143 to solicit comments and suggestions about the POP from the public. The three meetings were held at three COA public sites in different quadrants of the city. The first forum was held September 3, 2013 at the North Valley Senior Center and subsequent ones were held on September 17 at the West Mesa Community Center and October 17 at the Cesar Chavez Community Center (See Appendix F: List of Meeting Dates, Places and Times). At its early meetings, discussion was held by the POTF about the possibility of holding a "virtual town hall" aimed at increasing opportunities for participation and coverage of the city, but largely due to the press of other duties and the constraints of a limited time in the CCOA resolution, this proposal was not implemented. Instead the POTF opted to place a portal on the POTF website for general public comment.

Participants at the three town halls that were held were enthusiastic although the number present was not overwhelming. In all, twenty-six members of the public commented to the POTF at the three town halls. A list of speakers, summary of these comments, and an analysis of their comments is presented in Appendix K: Speakers, Summary, and Analysis of Public Comments. Although specific comments raised a number of issues, analysis shows that comments touched on eight main themes or categories: police violence and corruption; fear of retaliation and confidentiality; public trust in the APD; POC independence and objectivity; POC professionalism, preparation, and training; public participation and transparency at POC meetings; purpose of the task force and the roles of its members; APD training and response capability. Of the total sixty-four mentions made in the foregoing eight categories over half, thirty-five or about fifty-five percent, were in just three categories: public trust in the APD (11 comments or about 20 percent); police violence and corruption (11 comments or about 17 percent); POC professionalism, preparation, and training (11 comments or about 17 percent).

4. Task Force Subcommittee Meetings

The foregoing lays out the formation of the POTF and operations at its regular meetings and public hearings. As the minutes of these meetings indicate, the press of business at the regular meetings left little time for work planning or pointed identification, study, and discussion of particular areas for improvement of the current POP and involved offices.

As the POTF discussed and developed its work plan at regular meetings, the proposal surfaced to form subcommittees to plan and guide the POTF work as well as to more easily consider and study particular parts of the POP and related issues. To facilitate the planning of its work and to follow up on implementation of items adopted at regular meetings the POTF formed a Management Subcommittee charged with these tasks. This was the first subcommittee formed by the POTF and it consisted of three members of the POTF including the POTF chair; CCOA staff was provided to it and attended its meetings.

Meeting regularly, this subcommittee developed, presented, and reconfigured suggested work plans and possible additional subcommittee structures to the full POTF. Information about potential subcommittees and their focus was sought from POTF members and this was used to develop additional subcommittees and their charges (See Appendix L: Subcommittee Areas of Interest). After deliberation about the number and types of subcommittees, the full POTF adopted three additional subcommittees for a total of four:

1. Management
2. Police Oversight Commission
3. Independent Review Office
4. Albuquerque Police Department Internal Affairs

Membership on subcommittees was determined by the POTF Chair after an expression of interest by POTF members. The POTF Chair served as an ex officio member on all subcommittees. Subcommittee assignments resulted in the following distribution of members to the subcommittees:

1. Management: Bertoletti (Chair), Lipman, Simonson
2. Independent Review Office: Wagman (Chair), Erikson, Bertoletti
3. Police Oversight Commission: Simonson (Chair), Armijo, Koenigsberg, Perea
4. Albuquerque Police Department Internal Affairs: Arellanes (Chair), Loy

Subcommittees met as often as each deemed necessary to develop reports for the full POTF, usually once each week. Subcommittee meeting dates and times were posted on the CCOA website and were open to the public. CCOA staff was provided to each subcommittee and attended meetings in order to provide support and transmit requests for additional resources or research. Some additional research was requested by subcommittees and provided to them to inform their deliberations (See Appendix M: Additional Subcommittee Requested Documents). This research was aimed at providing additional background to the materials already reviewed by the full POTF or answering specific subcommittee questions.

Although the actual process followed for developing recommendations to present to the full POTF was particular to each subcommittee, the Management Subcommittee did provide some guidance to aid subcommittee deliberations. This consisted of two guidance documents. One document was set of cascading questions that could be considered and answered in turn by each subcommittee to help focus discussion and recommendations on identified problems.

The other guidance document was a framework for preparing well considered and focused recommendations. The basic format of this framework was that used in the MGT Reports of pairing findings with recommendations. In addition to focusing subcommittee deliberations in recommendation preparation, these two documents helped to make the subcommittee reports more similar in their scope and depth and therefore more easily compared by the full POTF (See Appendix N: Subcommittee Guidance Documents).

Subcommittees produced reports that were presented to the full POTF beginning at the meeting of December 4, 2013. Although subcommittee consensus was both hoped and aimed for, in the case of the IRO subcommittee, there was disagreement on the importance of some issues and a difference on the scope of improvements and reforms among the members. Therefore, the IRO subcommittee initially submitted both a majority and minority report. These subcommittee reports served as the principal and initial inputs into the facilitated sessions that followed to develop the recommendations contained in this report. (See Appendix O: Subcommittee Reports). After the presentation of these initial subcommittee reports, further written guidance was given for the formatting of subcommittee presentations and the facilitation process that followed (See Appendix N: Subcommittee Guidance Documents).

Part 3: Overview of Police Oversight Process Study

As mandated in F/S R-13-143, the POTF members reviewed and discussed both the current Police Oversight Process, which is implemented by the CPCP and the prior studies and recommendations done on it. This was one of the first activities on the POTF work plan. Much of the preliminary study and work of the POTF at its meetings was occupied by this task.

Initial assessment of the current CPCP was done in three ways. First, by examining pertinent documents such as the POC Ordinance itself, the POC Rules and Regulations, and other current COA legal opinion on the appropriate reading and implementation of the ordinance (See Appendix P: POC Documents). Second, this was done by examining graphic depictions of the flow of work and key decisions that are implicit in those documents. Third, POTF members heard testimony from key actors in the CPCP on their roles and responsibilities and made inquiries of clarification on the CPCP.

POTF members were provided with the full text for their review of the three prior reports on the COA CPCP done in 1997 by Walker Luna and by MGT in 2005 and 2011. Also, these studies were placed on the POTF page on the CCOA website. In addition, staff prepared two sets of documents to help in the analysis of these prior reports and their impact on the CPCP. These two sets of documents are presented briefly below.

A. Brief Descriptions of the CPCP

One challenge for the POTF in reviewing the current CPCP was squaring the flow of work and decisions as outlined in the POC Ordinance and the decisions and actions delineated in the POC Rules and Regulations. Also, some of the actual interactions and hand off among agencies

and offices such as the POC, IRO and APD/IA are the result of ad hoc processes and arrangements made to accommodate changes not contemplated by those enabling documents or to conform to resource availability. To assist in analyzing these processes and structures, staff developed decision flow charts and obtained other graphic depictions used by the IRO. These were presented to the POTF in a regular meeting to help outline and understand the current CPCP (See Appendix Q: Decision and Flow Charts).

As the flow charts make clear, there is some divergence between the POC Ordinance and its Rules and Regulations. Partly this is due to some internal contradictions in the POC Ordinance. The effect of this divergence is that it can be unclear when ad hoc procedures have been developed to address these instances or which procedure may be followed in some instance. Some examples of these divergences and lack of specificity:

- POC Rules and Regulations do not address IRO-POC non-concurrence
- POC Rules and Regulations do not address next step after appeal denial
- POC Rules and Regulations and the POC Ordinance differ on issuance of Complaint Response Letters
- POC Rules and Regulations and the POC Ordinance differ on appeals process to COA Chief Administrative Officer

B. Prior Studies and Reforms of the CPCP

Members of the POTF closely reviewed the reports done in by Walker-Luna and MGT. These reports were useful for preliminary and final deliberations of the POTF because they indicated sets of findings and recommendations that were useful in the current CPCP study. Nevertheless, two questions were raised by members of the POTF in discussing the findings in these documents. The first recurring question was how the reports compared over time in their analysis, findings, and recommendations. The second recurring question was what recommendations had been adopted and implemented over time by what offices and agencies and what were the reasons why some recommendations had been adopted and others had not been adopted.

To facilitate answering these questions, two sets of documents were prepared by staff for use by the POTF in making comparisons across documents and time. The first set of documents was a summary of each report focusing on the problems identified, findings, and the recommendations in each of the three principal reports. The second set of documents was a chart that summarized the status of the adoption of recommendations from the prior reports (See Appendix R: Prior Report Summaries). Using these reports the POTF was able to get an overview of at least partial answers to these questions.

As a review of Appendix R: Prior Report Summaries indicates, some parts of the CPCP have been changed or improved over the years and others have not. The system itself has changed from the Public Safety Advisory Board and Independent Counsel System mentioned in the Walker-Luna 1997 report to the current POC and IRO system which is the subject of the two

MGT reports in 2006 and 2011. In addition to the change in the system, some recommendations in the prior studies were carried out, for example:

- CCOA taking a more active role in overseeing the system (Walker-Luna 1997)
- Extension of the citizen appeal deadline from ten business days to 30 calendar days (MGT 2006)
- Bringing POP processes into conformance with Garrity limitations (MGT 2006)
- Establishing criteria for complaints that are handled by the IRO and those referred to APD/IA (MGT 2006)
- Indication of mediated cases is now included in the quarterly and annual reports (MGT 2011)
- IRO has implemented a method of tracking Commissioner training through the office's administrative assistant (MGT 2011)
- Specific disciplinary outcomes of sustained complaints and long-term trend analysis are published in quarterly and annual reports (MGT 2011)
- The IRO has been provided with the funding by the CCOA to hire a full-time analyst whose task it is, not to investigate complaints, but to monitor complaints and other data available in order to proactively address policy and systemic issues. (MGT 2011)

Nonetheless, as reflected in the POTF Recommendations (See below, Part 4: Recommendations) numerous other recommendations raised in the prior studies have been only partially addressed or not implemented. Due in part to the passage of time and the changing of actors as well as the inability to compel information from other branches of the municipal government, it was difficult for CCOA staff and for the POTF to determine the specific impediments to the carrying out each recommendation. Nevertheless, it is clear that much of this situation is due to limited resources dedicated to the POC and IRO functions. In other cases, it is due to limitations on actions by the current POC Ordinance. In still other cases, it is due to actual opposition by actors in the POP. Some examples of recommendations from prior reports that were not put into effect:

- Undertake an outreach program to publicize complaint process (Walker-Luna 1997)
- 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 (MGT 2006)
- Develop criteria that establish the minimum and maximum length of time the IA commander may work in that assignment (MGT 2006)
- A complete separation of responsibility, where APD/ IA handles only internal cases and the IRO handles all citizen complaints (MGT 2011)
- Amend the POC ordinance to require the POC, through the IRO, to consider the published chart of sanctions and recommend discipline for all sustained complaints, separate from the discipline imposed by the APD (MGT 2011)
- Extending the IRO contract time-period to more than a two year period as currently required (MGT 2011)

Many of the following POTF recommendations were developed to meet the perceived impediments to implementing changes in the POP suggested by outside study. Not the least of these is the call for resources to support the POP that are not at play in the COA budget process. Another is the notion of creating a quasi-independent agency to carry out the POP.

Part 4: Recommendations

Using the facilitated process recounted above, the POTF developed, refined, and adopted Recommendations for the CCOA as mandated in F/S R-13-143. This part of the report presents those recommendations and additional considerations approved by the POTF for transmittal to the CCOA. They are presented in two sections: Statement of Principles and Recommendations.

The Statement of Principles was adopted by the POTF as a potential aid to the interpretation of the recommendations transmitted in this report. POTF members desired to ensure that, if CCOA members had doubts about the sense of any recommendations, guidance was provided. The Statement of Principles was compared in POTF deliberations to the preamble of a code or ordinance that helps to provide background for interpretation.

The Recommendations approved by the POTF are organized into four Goals. The Goals are specific aims for what constitutes a radically transformed police oversight system. Under each Goal specific recommendations are offered as particular outcomes for implementation of the new system so that it functions both in accordance with the adopted Principles and to reach the stated Goals.

A. Statement of Principles

These recommendations and any related changes to the Police Oversight Ordinance shall be interpreted and construed to support the following legislative purposes:

A. to foster and perpetuate policing policies and practices that effectively maintain social order and which at the same time foster mutual trust and cooperation between the police and the citizenry

B. to ensure that the civilian police oversight body functions as independently as possible from the executive and legislative branches of the government of the City of Albuquerque

C. to provide citizens and police officers a fair and impartial forum for adjudication of grievances against individual police officers and against the police department as a whole

D. to gather and analyze data on trends, complaints, impacts, and practices concerning the actions of the Albuquerque Police Department, the impact of those actions on the community, and the impact of those actions on police/community relations

E. to provide policy guidance to the City Council, the Mayor, and the Chief of Police, including guidance on police procedures and guidelines

B. Recommendations Adopted by POTF

Goal 1: The Civilian Police Oversight Process will have a greater level of independence

Recommendations:

1. Mediation should be the first option for resolution of Citizen Police Complaints. Mediation services should be obtained from entities outside of City government. Mediators should be independent of the oversight body and APD, and should not be former employees of APD.

2. The Civilian Police Oversight Process should be structured as a quasi-public agency.
   a. This agency (Civilian Police Oversight Agency) will be responsible for the full range of Civilian oversight of police, from investigation of individual Citizen Police Complaints through policy formulation. The Agency will employ sufficient staff to carry out these functions.
   b. The Agency will administer its own budget and supervise its own staff, in compliance with the City's Merit Ordinance and contractual services policies and procedures (Public Purchases Ordinance).
   c. The Agency should be permitted to retain or employ an attorney to provide legal advice and to advocate for Agency positions before other branches of City government.

3. The Civilian Police Oversight Agency should have a dedicated and independent source of funding.
   a. Funding will be determined by a specific metric, for example, an amount equal to a percentage of the total APD budget, or a per capita amount per police officer.
   b. If legally possible, members of the newly formed Civilian Police Oversight Board will receive a stipend/compensation (but will not be eligible for City benefits).

4. Citizen Police Complaint findings should not be released to APD prior to finalization by the Agency.

Goal 2: The Civilian Police Oversight Agency will be invested with clearly defined and broader authority

Recommendations:

5. The Civilian Police Oversight Agency should have the authority to recommend officer disciplinary action from the Chart of Sanctions for sustained Citizen Police Complaints.
    a. The Chief of APD must respond in writing if the recommended disciplinary action is not imposed.

6. The Civilian Police Oversight Agency should have the authority to recommend changes to APD policy, training, programs, and procedures.
    a. The Chief of APD must respond in writing to the recommendations, indicating which recommendations will be followed and providing an explanation for those that will not be followed.

7. The Civilian Police Oversight Agency should have greater access to civilian complaints, court complaints, and Internal Affairs case data.
    a. This will allow greater analysis and understanding of trend data to support recommended policy changes.

8. The Civilian Police Oversight Agency should periodically audit individual Citizen Police Complaints and act as an appeal body for all Citizen Police Complaints.
    a. The Agency shall have access to full investigative files, including statements of witnesses and police officers.
    b. The Agency shall have the authority to subpoena documents and witnesses and take testimony under oath.

9. The length of time that citizens have to file Citizen Police Complaints from the date of incident should be increased to 120 days.

10. All complaints about direct civilian-officer interaction should be routed to the Civilian Police Oversight Agency, regardless of source.
    a. All internal APD complaints not relating to civilian-officer interaction will be handled in accordance with APD policy.

Goal 3: The Board of the Civilian Police Oversight Agency should be broadly representative of the entire community and should be balanced geographically and demographically, and with respect to the stakeholders of the police oversight process. The Board will collectively have a broad range of skills, backgrounds and experience

Recommendations:

11. The Board of the Civilian Police Oversight Agency should consist of nine members, selected at-large.

12. Civilian Police Oversight Agency Board members should serve a maximum of two, three-year terms on a staggered basis.

13. Civilian Police Oversight Agency Board members should be selected through the following process:
    a. The City Council will form a selection committee of five members who are not City elected officials or City employees.
    b. The selection committee will establish a well-publicized, fair and equitable application process.
    c. The selection committee will evaluate prospective Board members according to the following minimum standards:
        i. Residency within the Albuquerque city limits.
        ii. Successfully pass a background check.
        iii. Personal history lacking any pattern of unsubstantiated complaints against APD.
        iv. Have the demonstrated ability to engage in mature, impartial decision making.
    d. The selection committee will submit their recommendations for Board membership to the City Council for approval.
    e. No member of the Police Oversight Task Force or the current Police Oversight Commission shall be appointed to the first Board of the new Civilian Police Oversight Agency.

14. Upon selection, Civilian Police Oversight Agency Board members will complete an orientation program consisting of the following:
    a. Attendance at Board meetings.
    b. Becoming familiar with Agency policy and procedures.
    c. Failure to complete the orientation program will result in not being appointed to the Board.

15. All Civilian Police Oversight Agency Board members should complete a specific training program, which shall consist of:
    a. Completion of the APD Civilian Police Academy.
    b. Civil Rights training.
    c. A specific number of APD ride-alongs.
    d. Annual firearms simulation training (FATS).
    e. Internal Affairs training.
    f. Periodic additional training programs.
    g. Board members are also encouraged to attend national conferences and workshops relating to police oversight, such as the annual NACOLE conference, at City expense.

    Failure to comply with the training requirements may result in dismissal from the Board.

Goal 4: The Civilian Police Oversight Agency will develop and implement a program of community outreach with the intent of reaching a broader segment of the community

Recommendations:

16. The Civilian Police Oversight Agency will report on its community outreach efforts to the City Council on a semi-annual basis.

17. The Board of the Civilian Police Oversight Agency should be given a new name to reflect the changes recommended.

18. Citizens should be provided with adequate notice when their Citizen Police Complaint will be heard by the Agency.

List of Acronyms Used

Albuquerque Police Department (APD)
Albuquerque Police Officers Association (APOA)
City Council of Albuquerque (CCOA)
City of Albuquerque (COA)
Citizen Police Complaint Process (CPCP)
Independent Review Office (IRO)
New Mexico Open Meetings Act (OMA)
Police Oversight Process (POP)
Police Oversight Task Force (POTF)
Police Oversight Commission (POC)
Subject Matter Experts (SME)

APPENDIX A:

JOURNAL ARTICLES

abqjournal.com http://www.abqjournal.com/154125/opinion/police-oversight-panel-loses-all-credibility.html

Editorial: Police Oversight Panel Loses All Credibility

Albuquerque Journal Editorial Board Tue, Dec 18, 2012

"You do not have an unlimited right to come up and speak about anything you want, and say anything you want, during public comment."

— Police Oversight Commissioner Richard Shine

Shine might have a point if the folks in the gallery at last week's meeting wanted to talk about the fiscal cliff, the war in Afghanistan, the price of gasoline or what they hear via the metal fillings in their teeth.

But they did not. Those Albuquerque residents at the microphone wanted to talk specifically about an agenda item before the commission regarding a conflict of interest of one if its members.

And they were told in no uncertain terms to sit down and shut up because the commission had already voted unanimously to support POC chair Linda Martinez, even though she belongs to a police-affiliated organization that opposes civilian review of law enforcement.

How, exactly, does that work? As a member of the local auxiliary of the Fraternal Order of Police, is Martinez against police oversight except on the second Thursday of every month when she chairs the local POC meetings?

That simply defies logic. Perhaps that's why the commission shut down public comment on Martinez's ability to investigate complaints against officers, claiming it was irrelevant.

The city of Albuquerque's Police Oversight Commission Rules and Regulations state in Article 4, Section 7b that "if the complaint (about a commissioner) relates to a possible conflict of interest, commissioners will consider the complaint and decide whether an appearance of a conflict of interest exists and act accordingly."

And those rules and regulations do not bar the public from commenting on "old" business.

The commission has the duty "to provide a means for prompt, impartial, and fair investigation of all citizen complaints brought by individuals against the Albuquerque Police Department. ... to provide for community participation in recommending and reviewing police department policies, practices and procedures. ... to promote a spirit of accountability and communication between the citizens and APD while improving community relations and enhancing public confidence."

Yet commissioners failed on all counts regarding a clear-cut complaint against themselves. If Martinez truly "believe(d) in police oversight," she would have resigned from one position or the other. If her eight fellow board members did, they would have counseled her to step down from the city panel.

Now City Councilor Don Harris — who appointed Martinez in 2007 — or Mayor Richard Berry — who re-appointed her in 2011 — should step up and clean house.

APD is being investigated by the U.S. Justice Department for civil rights violations after a run of police shootings and numerous allegations of excessive force and unprofessional conduct. The case does not need to be compounded by Police Oversight commissioners who can't see their own problems.

Much less address them. Or let the public attempt to.

This editorial first appeared in the Albuquerque Journal. It was written by members of the editorial board and is unsigned as it represents the opinion of the newspaper rather than the writers.

Changes For Oversight Commission

Dan McKay / Journal Staff Writer

Fri, Jan 25, 2013

Albuquerque city councilors began shaking up the Police Oversight Commission this week with the appointment of three new members, and they pledged to debate broader reforms in coming months.

Two more vacancies on the nine-member commission will have to be filled soon, too, because of terms that expire Feb. 1.

The commission has come under increasing scrutiny in recent months as activists and families of people shot and killed by officers push for change in the Albuquerque Police Department. The POC also voided one of its votes recently — to censure a member — because its consideration violated the state Open Meetings Act.

City Councilor Rey Garduño wants the city to hold a town-hall meeting on police oversight.

"Do we have to revamp it? Obviously," he said. "We have testimonials at every single meeting that something is wrong."

At a council meeting Wednesday, councilors confirmed Mayor Richard Berry's appointment of three new members to the oversight commission. The POC has nine members, one from each council district.

Under city rules, when there's a vacancy, the councilor from that district nominates two candidates to the mayor, who, in turn, picks one to forward for council confirmation.

Here's a look at the recent or upcoming membership changes:

♦ Councilors confirmed civil engineer Jeffrey Peterson this week to replace Bambi Folk, who's finishing her second term and not eligible for re-appointment. Councilor Brad Winter, who nominated Peterson for the job, described him as having "great common sense."

♦ Carl Foster, an educator who's served as a reserve sheriff's deputy in San Juan County, was confirmed to replace Bob Francis, who resigned on his own for personal reasons. Foster is an adjunct faculty member at New Mexico Highlands University. Councilor Trudy Jones, who nominated Foster, said he has a good "analytical mind."

♦ William Barker, district military instructor for Albuquerque Public Schools, was approved to replace Linda Martinez, who's finishing her second term and not eligible for re-appointment.

Martinez has faced criticism for her membership in a police organization that opposes civilian review of law enforcement — local auxiliary of the Fraternal Order of Police.

Councilor Don Harris, who nominated Barker for the job, said he is perfect for the position because he has a counseling degree, works with young people and served in the military, while "some of the people killed perhaps suffered from post-traumatic stress disorder because of their service."

♦ Two more appointees could be on the way. The terms of Valerie St. John and David Adkins expire Feb. 1, but they can continue serving until a replacement is appointed, according to the city Legal Department.

— This article appeared on page C1 of the Albuquerque Journal

abqjournal.com
http://www.abqjournal.com/164750/abqnewsseeker/city-councilors-hope-to-revamp-police-oversight-commission.html

City Councilors Hope to Revamp Police Oversight Commission

Patrick Lohmann / Journal Staff Writer

Wed, Jan 30, 2013

Posted: 1:32 pm

Two Albuquerque city councilors are trying to bring "accountability and transparency" to the Police Oversight Commission by creating a task force that will make recommendations for improving the POC.

The Police Oversight Task Force will evaluate the POC and make a report by the end of this year, according to a news release from councilors Brad Winter and Rey Garduno. No changes will be made to the POC until December, the councilors said.

In compiling that report, the task force will host at least three public forums through March.

The POC has come under scrutiny recently after some community members were not allowed to finish their public comments at a recent meeting, drawing criticism from open government advocates and members of the public.

abqjournal.com http://www.abqjournal.com/164812/opinion/city-police-oversight-is-overdue-for-overhaul.html

Editorial: City Police Oversight Is Overdue for Overhaul

Albuquerque Journal Editorial Board

Thu, Jan 31, 2013

Albuquerque City Council President Dan Lewis and Councilor Don Harris are showing leadership in their move to begin rebuilding the city's police oversight system, which has been in place since 1999.

As the process unfolds it will be important for that leadership to demand specific reforms that bring accountability and transparency to — as well as engender confidence in — the system.

To date the Police Oversight Commission, made up of nine volunteers, one appointed by each councilor, has not scored well in those areas. The city remains divided in the wake of 27 police shootings since January 2010, along with allegations of excessive force and other instances of unprofessional conduct such as outrageous postings on social media sites by officers. That run has culminated in a U.S. Justice Department civil-rights investigation.

Rather than garner attention for its examination of and rulings in those cases, the commission has instead garnered a lawsuit threat for tossing a citizen out of a public meeting because he wanted to speak on an agenda item. And it has garnered ridicule for proposing to censure a member but then spending 20 minutes looking up the word "censure." For unanimously endorsing its now-former chairwoman, who belongs to a group that opposes citizen oversight of law enforcement. And for one member suggesting that a dead man wanted to commit "suicide by cop" because his gun wasn't loaded during a confrontation with a police officer (who famously described his job as "human waste disposal").

Lewis and Harris have asked for public meetings to seek public input for reforming the commission, as well as $36,000 to hire an analyst to examine long-term trends in citizen complaints regarding police and other data.

Those are good moves, as a project this broad and this high profile should have a solid grounding in public participation and, where applicable, reforms should be data driven.

The commission has been around for more than a decade, yet Lewis says the process has not undergone the complete system review the ordinance requires every four years. That's vital, as are changes essential to informed decisions and public confidence.

Under the enabling ordinance, the commission does not receive the names of officers cited in citizen complaints, even though those names are public record and would allow commissioners to track patterns of behavior. It should be a given that the ordinance and, if ever approved, new police union contract comply with state law.

The ordinance also should be revised to ensure public comment is on point and protected. It is one thing to limit time at the microphone to germane agenda items or reasonable time allotments, another to discount it entirely as the recent board has done.

It is also important for councilors to consider the effectiveness of the basic structure of the oversight system.

Right now Internal Affairs or the commission's independent review officer investigates citizen complaints against officers; the IRO gives recommendations to the board supporting or rejecting the officers' actions. The

IRO also investigates all police shootings. The board can agree or disagree, but to date it has not weighed in on potential discipline, and no matter, since the chief of police has the final say.

Previous chiefs have as much as boycotted the meetings, raising the question, if the commission issues a ruling, is anyone who matters really listening?

Lewis says "this is the beginning of a complete revamp of the citizen oversight into the Albuquerque Police Department."

That's a welcome announcement that's long overdue, and one that deserves serious follow-through.

This editorial first appeared in the Albuquerque Journal. It was written by members of the editorial board and is unsigned as it represents the opinion of the newspaper rather than the writers.

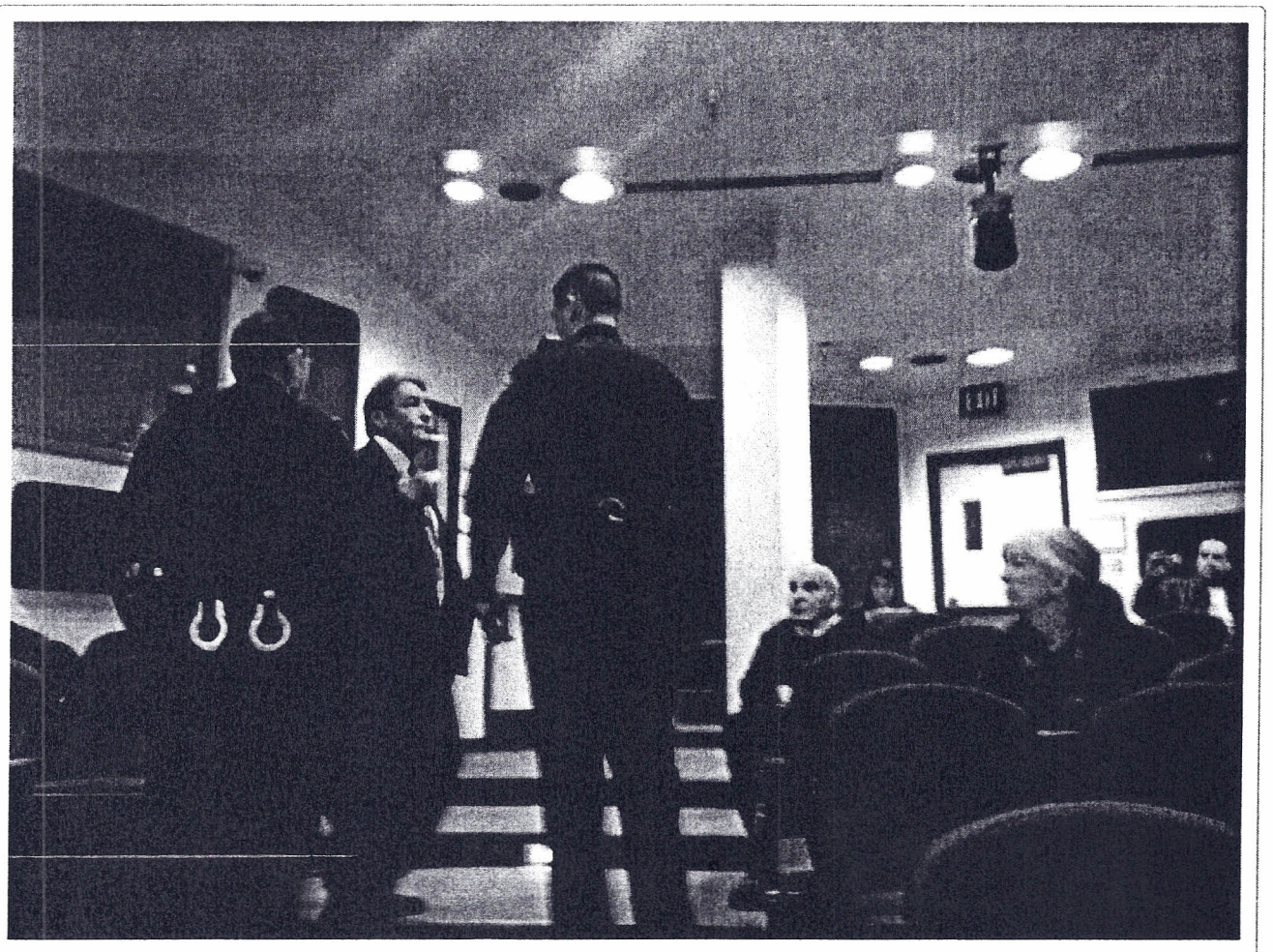
abqjournal.com
http://www.abqjournal.com/184427/abqnewsseeker/aclu-files-free-speech-lawsuit-against-police-oversight-commission.html

ACLU files free speech lawsuit against Police Oversight Commission

Patrick Lohmann / Journal Staff Writer

Tue, Apr 2, 2013

Posted: 1:23 pm



Officers escort Andres Valdez, executive director of Vecinos United, from the Police Oversight Commission meeting Thursday, December 13, 2012. (Patrick Lohmann/Journal)

The civilian board that reviews allegations of Albuquerque police misconduct and excessive force is facing a freedom of speech lawsuit for abruptly limiting public comment during a mid-December meeting.

More on this story:

- ACLU: Police board violated free speech
- Board's Censure Vote Nullified
- Oversight Panel Backs Chair

- Editorial: Police Oversight Panel Loses All Credibility
- Lawyer: I was censored at POC meeting

On Dec. 13, several commissioners on the nine-member panel interrupted critics of the board's then-chairwoman Linda Martinez, who they said had a conflict of interest because of her membership on the Fraternal Order of Police Auxiliary.

On Tuesday, the American Civil Liberties Union of New Mexico filed a legal complaint in state district court against the board that seeks punitive and compensatory damages for several attendees who signed up to express their concerns about Martinez's membership with the FOP, which opposes civilian oversight of police, according to the Order's website.

The commissioners said at the time that, since the board had just voted unanimously that Martinez had no such conflict of interest, the board was wasting its time discussing old business. Martinez then ordered police to remove attendee Andres Valdez while he was at the lectern speaking against the board's decision.

In filing the lawsuit, the ACLU said that the public comment portion of public meetings cannot be limited, regardless of whether board members want to hear what's being said.

"Nowhere is this right more important than when speaking out against perceived corruption or misuse of government power," said ACLU-NM executive director Peter Simonson. "The POC cannot attempt to silence criticism of public officials during the designated public comments period."

abqjournal.com http://www.abqjournal.com/200039/news/2-councilors-say-suspend-poc-panel.html

2 councilors say suspend POC panel

Dan McKay / Journal Staff Writer Fri, May 17, 2013

Two Albuquerque city councilors want to suspend operations of the Police Oversight Commission while the city debates the future of the civilian watchdog group.

Councilors Trudy Jones and Brad Winter, both Republicans from the Northeast Heights, plan to introduce the proposal at Monday's council meeting. Final action would come at a later meeting.

The commission has faced criticism from across the political spectrum in recent months. Its critics include the American Civil Liberties Union of New Mexico, which sued in April over public comment restrictions; the police union; and activists and family members of men shot and killed by police.

"When you have all the different groups involved with the POC saying the same thing – 'it's not working' – then there's something wrong," Winter said Thursday in an interview. "I think it's time it came to a head, and we just stop and work on the new ordinance."

Jones said the commission is "dysfunctional. It seems to cause more controversy than good."

A separate proposal is pending before the council to form a task force and sponsor town-hall meetings on how to revise the police oversight ordinance. That measure is co-sponsored by Winter and Rey Garduño, a Democrat from the university area.

The city established the civilian oversight system in 1999. An independent review officer investigates citizen complaints against police and decides whether an officer is in the right or wrong. The POC can accept or reject the findings, but the police chief has final say on disciplinary matters.

The POC is an advisory panel made up of nine appointed volunteers.

Under the Winter-Jones proposal, all functions of the POC would be suspended until the council re-authorizes the group or enacts a new oversight system. The independent review officer would continue to accept and investigate citizen complaints, but without involving the POC. In the meantime, the proposal says the city could assign staff to review the review officer's work or contract with hearing officers.

The oversight commission has been embroiled in controversy for months. The ACLU filed a freedom-of-speech lawsuit against it for abruptly limiting public comment during a mid-December meeting.

In January, one of the commission's votes – to censure a member – was voided because its consideration violated the state Open Meetings Act.

Meanwhile, the Albuquerque Police Department is facing a federal investigation into whether it has a pattern of violating people's civil rights, specifically through officers' use of force. There are also ongoing federal criminal investigations involving APD, although officials have not released details.

Even without any ordinance changes, the council has been reshaping the POC with the appointment of new members.

But the commission has continued to overwhelmingly exonerate officers in cases involving citizen complaints.

Mike Gomez, whose son was fatally shot by an officer, said he and other activists have for some time supported suspension of the commission. "There is nothing that's in place right now that should justify their existence," Gomez said. "I think it's a great idea to suspend their operations until the public and government can come up with a way to make them more credible and have some kind of enforcement ability."

Greg Weber, president of the Albuquerque Police Officers' Association, said Thursday he would support suspension because he is concerned about the level of training the commissioners receive about police work. He suggested this spring that councilors require the POC members to attend a citizen police academy or something similar.

Members of the commission are required to go on ridealongs and get civil-rights training.

abqjournal.com http://www.abqjournal.com/283768/news/legal-opinion-rocks-police-oversight-panel.html

Legal opinion rocks police oversight panel

Patrick Lohmann / Journal Staff Writer Fri, Oct 18, 2013

Posted: 12:05 am

A recent opinion from the City Attorney's Office has stripped much of the power from committees that report to the Police Oversight Commission, which reviews civilian complaints against police and officer-involved shootings.

The opinion made one committee chairman toss out all of the substantive items on its last meeting agenda, and commissioners wondered aloud at last week's meeting whether months of research and other work produced through the committees would be invalidated.

The opinion came after Commissioner Carl Foster asked the city attorney to define the relationship between Police Oversight and its committees. Foster was appointed to the commission in January by City Councilor Trudy Jones, one of two councilors who tried to get the commission suspended temporarily in May due to citizen concerns about its effectiveness.

Assistant City Attorney John Dubois, who is assigned to the POC, presented a 15-page opinion to the commission last week that looked specifically at the POC's Long-Term Planning Committee. The committee, in the past, has taken on what its members see as major problems in the police department, and they've recommended policy suggestions to the full commission.

For example, it has asked for yearslong studies of trends in officer-involved shootings and Internal Affairs investigations, and it has reached out to other cities with civilian reviews of police. It also does some legwork on issues that would otherwise be handled by the full commission, adding more time to the regularly four-and-a-half hour meetings.

Dubois advised that the committee could take up only "bite-sized" items that have been referred to it by the committee's chairman.

Dubois' opinion is based on two sections of the POC's ordinance and rules and regulations. One section outlines the POC's powers and duties as "engaging in a long-term planning process," but it doesn't specify that a committee should be tasked with that process.

The only specified task of the Long-Term Planning Committee is named in the commission's rules and regulations, and it is a relatively small one: The committee is required to consider the budget for the POC and its investigative arm, the Independent Review Office.

To the City Attorney's Office, that means that the LTPC's role is only to draft a budget – plus consider the occasional item referred by the chairman.

Dubois has sat in on multiple Police Oversight Commission meetings where LTPC committee members have reported about their projects and received permission from the majority of members to pursue other objectives, and he never objected to the committee's agenda. In a recent interview, Dubois said Foster's request made him look deeper into the commission's ordinance, prompting the change of view.

Another committee impacted by the opinion was created in October 2012 to reach out to the public to educate

them about the oversight process and hear public comments.

At the POC's meeting last week, chairman David Cameron decided to suspend all committee reports until they can clarify the committee's role further. The commission will discuss changing its rules at its November meeting.

Commissioners also appeared to disagree on the value of the city attorney's opinion.

"The attorney's opinion is just that – an opinion," said Richard Shine, also the LTPC chairman.

But Foster said the commission should accept the legal advice and move on.

His was the only vote against discussing the issue at the November meeting. Six other commissioners supported it.

The change happens amid a separate public outreach effort aimed at overhauling the police oversight process, which has been criticized lately by members of the public who say it is ineffective. City councilors created an 11-member task force composed of former police officers, community activists, civil rights attorneys and others to formulate ideas for overhauling the POC.

Those recommendations are due by the end of the year.

APPENDIX B:

RESOLUTIONS

CITY of ALBUQUERQUE
TWENTIETH COUNCIL

COUNCIL BILL NO. F/S R-13-267 ENACTMENT NO. R-2013-133

SPONSORED BY: Rey Garduño and Brad Winter

RESOLUTION

APPOINTING A MEMBER TO THE POLICE OVERSIGHT TASK FORCE TO REPLACE A MEMBER THAT HAS RESIGNED AND EXTENDING THE POLICE OVERSIGHT TASK FORCE REPORTING DEADLINE TO JANUARY 31, 2014.

WHEREAS, the City Council passed F/S R-13-143, Enactment No. R-2013-044, which created an 11 person ad hoc Police Oversight Task Force, and required that a report on the recommendations of the Task Force be submitted to the City Council by the end of December, 2013; and

WHEREAS, the City Council passed R-13-207, Enactment No. R-2013-067, which named the 11 members of the Police Oversight Task Force; and

WHEREAS, the City Council wishes to extend the Task Force report deadline by 30 days and replace a Task Force member who has resigned.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. Mr. Leonard Waites will replace Dr. Julia Kennedy, who resigned from the Task Force on Wednesday, October 30, 2013.

Section 2. The Task Force shall meet as many times as necessary to complete a thorough evaluation and analysis of the police oversight process and report back to the City Council with its recommendations for improving the police oversight process by January 31, 2014.

[+ Bracketed/Underscored Material +] - New
[- ~~Bracketed/Strikethrough Material~~ -] - Deletion

x:\city council\share\cl-staff\legislation\twenty\r-267fsfinal.docx

PASSED AND ADOPTED THIS 18th DAY OF November, 2013
BY A VOTE OF: 9 FOR 0 AGAINST.

Daniel P. Lewis, President
City Council

APPROVED THIS 13th DAY OF December, 2013

Bill No. F/S R-13-267

Richard J. Berry, Mayor
City of Albuquerque

ATTEST:

City Clerk

[+ Bracketed/Underscored Material +] - New
[- Bracketed/Strikethrough Material -] - Deletion

CITY of ALBUQUERQUE
TWENTIETH COUNCIL

COUNCIL BILL NO. F/S R-13-143 ENACTMENT NO. _____

SPONSORED BY: Brad Winter and Rey Garduño

RESOLUTION

INITIATING A PROCESS TO INDEPENDENTLY REVIEW THE CITY'S MECHANISMS OF POLICE OVERSIGHT; CREATING AN AD HOC POLICE OVERSIGHT TASK FORCE TO OVERSEE THAT PROCESS AND MAKE RECOMMENDATIONS TO THE CITY COUNCIL; CALLING FOR THREE PUBLIC FORUMS TO BE HELD AT VARIOUS LOCATIONS THROUGHOUT THE CITY.

WHEREAS, the City of Albuquerque maintains a highly professional well trained police department; however, an effective oversight mechanism is critical to maintaining the public's confidence in that department; and

WHEREAS, the City Council has enacted a Police Oversight Ordinance to provide oversight of the Albuquerque Police Department and oversee all citizen complaints; and

WHEREAS, recent events have eroded the public's faith in that police oversight process and the City Council feels that the process needs to be reevaluated and changed if necessary; and

WHEREAS, the Police Oversight ordinance requires periodic evaluations so as to *"undertake a complete evaluation and analysis of the entire Police Oversight Process, and recommend any necessary changes or amendments that would appropriately improve the process." §9-4-1-11 ROA 1994*; and

WHEREAS, the City Council believes that the creation of a Police Oversight Task Force is an appropriate first step in bringing expertise to bear on the review of the police oversight process; and

WHEREAS, as an indispensable part of that review process, the City Council finds it necessary to hold public forums to receive public comment on the existing oversight process, and suggestions on ways that it can be approved, from the citizens of Albuquerque; and

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

WHEREAS, the City Council feels that it is in the best interest of the City for this review to take place as expeditiously as possible.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. There is hereby created an ad hoc Police Oversight Task Force. The Police Oversight Task Force shall consist of eleven (11) members representing the ethnic and gender diversity of Albuquerque and the following interests:

a. A member with investigative or prosecutorial experience at the district or statewide level;
b. Two members with non-profit advocacy experience in mobilizing community groups to address social concerns;
c. A member with experience in an organization that defends and works to preserve individual civil liberties;
d. A retired member of the Albuquerque Police Department;
e. Five members of the community at large;
f. A member with experience in governmental efficiency and accountability.

The Chair and Vice-Chair of the Police Oversight Task Force will be selected by a majority vote of the members of the Task Force. The Task Force shall hold its meetings in compliance with the State Open Meetings Act and shall conduct its meetings in accordance with Robert's Rules of Order.

Section 2. Duties of the Police Oversight Task Force. The Task Force shall meet as many times as necessary so as to complete a thorough evaluation and analysis of the police oversight process and report back to the City Council with its recommendations for improving the police oversight process by the end of December 2013. The Task Force shall review the history and evolution of the existing police oversight system by reviewing the results and recommendations of the Walker/Luna study and both the 2006 and 2011 MGT studies. The Task Force shall receive briefings and presentations, as necessary, from subject matter experts on the city's current oversight system, and on best practices and oversight models from other cities. The Task Force may request the City to engage nationally known experts in the field of police

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

oversight to assist them in making their recommendations. Staffing for the Task Force shall be provided by the City.

Section 3. As an indispensable part of the Task Force's work, the Task Force will hold three Town Hall meetings in which members of the public are encouraged to provide comments or suggestions for improving the police oversight process.

Section 4. An amount of up to $50,000 is hereby designated with the City Council Projects activity to pay for consultants and services related to this resolution.

[+Bracketed/Underscored Material+] - New

[-Bracketed/Strikethrough Material-] - Deletion

CITY of ALBUQUERQUE
TWENTIETH COUNCIL

COUNCIL BILL NO. O-13-51 ENACTMENT NO. _____

SPONSORED BY: Trudy Jones and Brad Winter

ORDINANCE

SUSPENDING THE OPERATION OF THE POLICE OVERSIGHT COMMISSION PENDING A REVIEW OF THE CITY'S POLICE OVERSIGHT PROCESS.

BE IT ORDAINED BY THE CITY COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. LEGISLATIVE FINDINGS.

(A) Effective oversight of the police force is critical to public safety and confidence and, therefore, the City Council has enacted a Police Oversight Ordinance to provide oversight of the police force and process citizen complaints.

FAILED

(B) Due to recent events, the City Council feels that the police oversight process needs to be reevaluated and changed if necessary. Furthermore, the City Council finds that the required evaluation will be facilitated by a temporary suspension of the work of the Police Oversight Commission to allow time for studies, public meetings and, if required, revisions to the Police Oversight Ordinance or adoption of a different oversight mechanism.

Section 2. TEMPORARY SUSPENSION OF THE WORK OF THE POLICE OVERSIGHT COMMISSION. All functions of the Police Oversight Commission are hereby suspended until such time as the City Council determines those functions should begin again or enacts a different or altered oversight process. During the suspension, the Independent Review Office (IRO) shall continue to receive, investigate and evaluate citizen complaints without oversight by or the involvement of the existing Police Oversight Commission.

Section 3. The determinations of the IRO shall, if requested, be reviewed by the City pursuant to the Police Oversight Ordinance. The City may assign the review to existing City staff or contract with hearing officers who are

qualified pursuant to the terms Administrative Hearings Ordinance to conduct a whole record review of the determinations of the IRO.

Section 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Section 5. EFFECTIVE DATE. This ordinance shall take effect five days after publication by title and general summary.

x:\share\legislation\ordinances\poc suspension.doc

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion

APPENDIX C:

JOURNAL COVERAGE

Wanted: 11 to evaluate police-oversight ordinance

Dan McKay / Journal Staff Writer Tue, Jun 4, 2013

Posted: 12:05 am
Last updated: 6:04 am

City Hall is looking for applicants willing to serve on an 11-member task force charged with evaluating Albuquerque's police-oversight ordinance.

Councilors Brad Winter and Rey Garduño sponsored the resolution that established the group, which will hold town hall meetings and submit a report by the end of the year.

Here's what the city says it's looking for:

♦ One person with investigative or prosecutorial experience;

♦ two people with nonprofit advocacy experience in mobilizing community groups to address social concerns;

♦ one person with experience in a group that defends civil liberties;

♦ a retired member of the Albuquerque Police Department;

♦ five people from the community at large; and

♦ a person with experience in governmental efficiency and accountability.

Learn more and apply online at cabq.gov/council. The deadline is July 3.

Union endorses Dinelli

The union group that represents thousands of city employees endorsed Pete Dinelli's bid for mayor.

AFSCME, the American Federation of State, County, and Municipal Employees, announced the endorsement on Saturday. Dinelli, a Democrat, faces incumbent Richard Berry and retired police Sgt. Paul Heh, both Republicans, in the October city election.

"I am running for mayor because for too long, the working families of this city have taken a back seat to the special interests under this Republican mayor," Dinelli said in a news release. "I look forward to working with AFSCME to help take back our city and get us moving forward again."

Complaint dismissed

Berry got some good news from the city ethics board last week.

The board's review committee dismissed a complaint filed by Pat Davis of the advocacy group ProgressNow New Mexico. The complaint accused the Berry administration of using city staff and resources to coordinate with a political committee that campaigned in favor of "ABQ: The Plan" bonds in 2011.

"The dismissal is vindication that the mayor and his staff did nothing wrong, and it provides yet one more reason why journalists and voters should take wild allegations from this group with an enormous grain of salt," campaign spokesman Tito Madrid said in written statement.

Ethics Board Chairman Robert P. Tinnin Jr. signed a brief one-page dismissal order on Friday.

APPENDIX D:

APPLICATION

Police Oversight Task Force

Online Services
Council District Map
Councilors
Agendas, Minutes & Legislation
Meeting Schedules
Legislation
Projects
Committees
Frequently Asked Questions (FAQ)
Council History
Police Oversight Task Force

Most Popular Pages

Councilors
Council District Map
Council Committee
Current Projects
Completed Projects
Frequently Asked Questions

Latest From Twitter

VISIT THE CABQ SOCIAL CLUB

Help shape the future of police oversight in Albuquerque – apply to be a member of the Police Oversight Task Force!

City Councilors Brad Winter and Rey Garduño recently sponsored legislation that created an 11-member "Police Oversight Task Force" to help review the City's police oversight process. The Task Force will be made up of members of our community representing the ethnic and gender diversity of Albuquerque and the following interests:

a. One of the members of the Task Force will have investigative or prosecutorial experience at the district or statewide level;
b. Two members will have non-profit advocacy experience in mobilizing community groups to address social concerns;
c. One member will have experience in an organization that defends and works to preserve individual civil liberties;
d. One member will be a retired member of the Albuquerque Police Department;
e. Five members will come from the community at large; and
f. One member will have experience in governmental efficiency and accountability.

Questions?

If you have any questions or if you need any additional information, please call:

Jon K. Zaman, Associate Director of Council Services, **(505) 768-3163**.

Duties

The Task Force will meet as many times as necessary in order to complete a thorough evaluation and analysis of the police oversight process and report back to the City Council with its recommendations by the end of December 2013.

Task Force Resolution

Read the City resolution creating the Ad Hock Police Oversight Task Force.

All May Apply

All members of the public are invited to submit their names for consideration to be part of the Police Oversight Task Force. If you are interested in serving, we would encourage you to fill out the following online form and tell us a little about yourself.

Deadline

The City will be taking applications through **5 p.m. on Wednesday, July 3, 2013**.

Contact Information

First Name (Required)

Last Name (Required)

Your E-Mail Address (Required)

Your Telephone Number (Required)

Please include area code (e.g. 505-555-5555).

Background Information

Experience

What background experience do you have that can assist the Police Oversight Task Force? Select all that apply.

- ☐ Investigative or prosecutorial experience at the district or statewide level.
- ☐ Non-profit advocacy experience
- ☐ Organizational work defending individual civic liberties
- ☐ Retired member of Albuquerque Police Department
- ☐ Experience in governmental efficiency and accountability
- ☐ Resident of the community at large

About Yourself (Required)

Provide a sentence or two explaining your interest in the Police Oversight Task Force.

☐ **Background Check** (Required)

Applicants for the City of Albuquerque's Police Oversight Task Force may be required to submit to a background check. By checking the box above, you acknowledge that your membership on the Police Oversight Task Force may be contingent upon approval of a City of Albuquerque background check.

Open Records

Applications for the Police Oversight Task Force may be subject to the N.M. Inspection of Public Records Act (IPRA).

Read more about the Inspection of Public Records Act.

Submit

City Council News

- Paradise Hills Little League Groundbreaking
- City of Albuquerque Swim Passes Available at APD NE Substation
- Update on Menaul Boulevard Median Treescapes
- Police Oversight Task Force Seeking Applicants
- Lewis And Harris Propose First Step In Revamping The POC

More…

City Council Events

City Council Meeting

More…

Contact Information

Norma Byers
City Council
(505) 768-3100
nbyers@cabq.gov

Full contact information

Summer Fun

Summer is concerts, baseball, fireworks, and fun.

Find Summer Fun in Albuquerque.

Resident Resources

Make a Payment

Use the tool below to make a payment today:

Please select an option below

Find a City Service

Use the tool below to find a city service:

Please select an option below

Most Requested Pages

Use the tool below to find the most requested website pages:

Please select an option below

Make a Comment

Use the tool below to send us feedback:

Please select an option below

Search Our Site

Search All Departments

APPENDIX E:

MEMBERS AND BIOS

Mr. Andrew Lipman, Chairman Community at large
Mr. Lipman is currently the Vice President of the Dr. Martin Luther King Jr. Memorial Center Board and Chair of the MLKMC Task Force for Public Safety Coalition. Mr. Lipman's professional experience includes; Development Officer for UNM's College of Education, President/CEO of New Mexico Holocaust and Intolerance Museum, Executive Director of the Jewish Federation of Greater Albuquerque, and Regional Director of the Jewish Federation Council of Greater Los Angeles. Mr. Lipman's educational background includes a B.A. in Political Science and Philosophy from the University of Pittsburgh and a M.S.W. in Community Organization and Administration from New York University.

Mr. Hans Erickson, Vice Chair Investigative/prosecutorial
Mr. Erickson is currently an Assistant Public Defender in the New Mexico Public Defender Department. His past experiences include being an associate attorney at Montgomery & Andrews in Santa Fe, DLA Piper in Singapore, and VinaCapital Group in Ho Chi Minh City. Prior to becoming a lawyer, Mr. Erickson was an investigator for the Civilian Complaint Review Board in New York City. His educational experience includes a Bachelor of Arts in English from Columbia University and a Juris Doctor from the University of California, Hasting College of the Law.

Mr. Ralph Arellanes Non-profit advocacy
Mr. Arellanes is currently the State Director for New Mexico LULAC (League of United Latin American Citizens), a member of the National LULAC Board of Directors, Chairman of the Hispano Roundtable of New Mexico, and an organizer for other organizations the seek advancement of education, employment, economic development and social justice for Hispanics and minorities. His educational background includes a Bachelor of Arts degree in Accounting and Finance from New Mexico Highlands University and a Masters of Business Administration from New Mexico Highlands University. Mr. Arellanas also holds various Air Force and Department of Defense National Certifications in cost analysis, cost estimating, auditing, and systems engineering.

Ms. Nancy Koenigsberg Non-profit advocacy
Ms. Koenigsberg is currently the Legal Director of Disability Rights New Mexico which is an advocacy and legal rights center for people with disabilities. Ms. Koenigsberg's previous experience includes being the Legal Director at the New Mexico Center for Law and Poverty and a staff attorney with Protection and Advocacy System. Ms. Koenigsberg has served on other task forces in Albuquerque, including; the 2004 City of Albuquerque Behavioral Health Crisis Triage Planning Initiative, the 2011 Mayor's Summit and the 2012 Bazelon Mental Health Law Center work group for Albuquerque/Bernalillo County.

Mr. Peter Simonson Civil liberties
Mr. Simonson is currently the Executive Director of the American Civil Liberties Union (ACLU) of New Mexico, which mission is to defending civil rights and liberties. Prior to this, Mr. Simonson was the Director of the Community Health Partnership which was a community driven, non-profit health council. Mr. Simonson's educational background includes a B.S. in Biology from

the University of Kansas, a M.A. in Cultural Anthropology, and a Ph.D. in Cultural Anthropology from the University of Michigan.

Mr. Edmund Perea Retired from APD
Mr. Perea is currently a licensed attorney in the State of New Mexico and formerly a command level police officer with APD, a section commander of Internal Affairs, and trainer with APD's police academy and was involved in implementing APD's philosophy of Community Oriented Policing. Mr. Perea's experience also includes being an Adjunct Professor of law, policy, ethics, and public safety at post-secondary institutions and is an active mediator at the Bernalillo County Metro Court. Additionally, Mr. Perea is an Executive Council member of the Latino Education Task Force which is a non-profit advocacy group. Mr. Perea's educational background includes a Bachelor of Arts from the University of New Mexico, a graduate of the F.B.I. National Academy, and a Juris Doctor from the University of New Mexico School of Law, where he was also elected President of the Student Bar Association.

Ms. Frances Armijo Community at large
Ms. Armijo is retired from Sandia National Laboratories where she was a team lead staff member in Safeguards and Security and has experience conducting and reporting on inquires relating to security concerns. Her duties included training personnel about their various security responsibilities and reporting of incidents and concerns. Ms. Armijo served as a State Representative in the New Mexico Legislature and is currently active in her neighborhood association.

Mr. Craig Loy Community at large
Mr. Loy is a former police office and retired as a Captain from APD in 2002 following twenty years of service. Mr. Loy is also a former Albuquerque City Councilor for District 8. Mr. Loy's educational background includes a Bachelor's Degree from the University of Phoenix.

Mr. Alan Wagman Community at large
Mr. Wagman is currently an Assistant Public Defender in Albuquerque and has experience as a Public Defender in other New Mexico communities including Silver City and Roswell. Prior to working as a public defender, Mr. Wagman was a Children's Court Attorney for New Mexico Children, Youth and Families Department and handled cases in Grant, Luna, Hidalgo, and Doña Ana Counties. Mr. Wagman's community service includes a past board member of the American Civil Liberties Union of New Mexico and a current member of the New Mexico Criminal Defense Lawyers Association.

Mr. Leonard Waites Community at large
Mr. Waites is currently a Site Manager with Black Box/ACS Dataline and works with clients such as Intel and Jones Lang LaSalle providing IT service maintenance. His duties include preparation of competitive bids, contract negotiation, supervisor training, and scheduling resources to accommodate contractual requirements. Mr. Waites has over 25 years of experience in account, project, financial and human resources management. His educational background includes a B.S. in Business Management from the University of Phoenix.

Mr. Fabrizio Bertoletti Governmental efficiency

Mr. Bertoletti is currently retired and a part time consultant at La Lenza Consulting, which specializes in government relations, public sector management, redevelopment and sustainable development projects. Mr. Bertoletti has experience within municipal government at the City of Albuquerque, where he was the Deputy Chief Administrative Officer, an Executive Assistant to the Chief Administrative Officer, Deputy Director for the Planning Department, Associate Director with the Family and Community Services Department, and Director of Capital Improvements Program, among other titles. Mr. Bertoletti's educational background includes a Bachelor of University Studies Sociology/Political Science from the University of New Mexico.

APPENDIX F:

LIST OF MEETING DATES

POTF

Date	Type	Location
8/20/13	Regular Meeting	Council Committee Room 9th Floor City Hall
9/3/13	Public Forum/Town Hall	North Valley Senior Center
9/10/13	Regular Meeting	Council Committee Room 9th Floor City Hall
9/17/13	Public Forum/Town Hall	West Mesa Community Center
10/2/13	Regular Meeting	Council Committee Room 9th Floor City Hall
10/17/13	Public Forum/Town Hall	Cesar Chavez Community Center
10/24/13	Regular Meeting	Council Committee Room 9th Floor City Hall
10/30/13	Regular Meeting	Council Committee Room 9th Floor City Hall
11/6/13	Regular Meeting	Council Committee Room 9th Floor City Hall
12/4/13	Regular Meeting	Council Committee Room 9th Floor City Hall
12/11/13	Regular Meeting	DMD Conference Room 7th Floor City Hall
12/18/13	Regular Meeting	Council Committee Room 9th Floor City Hall
1/8/14	Regular Meeting	DMD Conference Room 7th Floor City Hall
1/15/14	Regular Meeting	Council Committee Room 9th Floor City Hall
1/21/14	Regular Meeting	Council Committee Room 9th Floor City Hall
1/29/14	Regular Meeting	Council Committee Room 9th Floor City Hall

APPENDIX G:

AGENDAS

AGENDA

POLICE OVERSIGHT TASK FORCE PUBLIC FORUM

North Valley Senior Center- 3825 4th Street NW, Albuquerque, New Mexico 87107

Tuesday, September 3rd, 2013

5:30 p.m. – 7:30 p.m.

I. Call Meeting to Order

II. Welcoming remarks by the Chair of Police Oversight Task Force

III. Public Comment

IV. Announce dates and locations of upcoming meetings and public forums

V. Meeting adjourned

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the Council Office as soon as possible before the meeting date at 505-768-3100 or by the TTY at 1-800-659-8331.

AGENDA

POLICE OVERSIGHT TASK FORCE PUBLIC FORUM

West Mesa Community Center, 5500 Glenrio Rd NW

Tuesday, September 17, 2013

5:30 p.m. – 7:30 p.m.

I. Call Meeting to Order

II. Welcoming remarks by the Chair of Police Oversight Task Force

III. Public Comment

IV. Announce dates and locations of upcoming meetings and public forums

V. Meeting adjourned

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the Council Office as soon as possible before the meeting date at 505-768-3100 or by the TTY at 1-800-659-8331.

AGENDA

POLICE OVERSIGHT TASK FORCE PUBLIC FORUM

Cesar Chavez Community Center- 7505 Kathryn Ave SE, Albuquerque, New Mexico 87108

Thursday, October 17th, 2013

5:30 p.m. – 7:30 p.m.

1. Call Meeting to Order
2. Welcoming remarks by the Chair of Police Oversight Task Force
3. Public Comment
4. Task Force discussion of proposed road map
5. Announce dates and locations of upcoming meetings
6. Meeting adjourned

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the Council Office as soon as possible before the meeting date at 505-768-3100 or by the TTY at 1-800-659-8331.

POLICE OVERSIGHT TASKFORCE

AGENDA

Thursday, October 24, 2013

5:30 p.m. – 7:30 p.m.

Albuquerque City Council Committee Room- 9th Floor of City Hall

1. Call Meeting to Order – Andrew Lipman – 5:30 p.m
2. Public Comment – 5:35 – 5:50 p.m
3. Presentation on Decision Flow Charts for the Citizen Complaint Process as described in Ordinance and in POC Rules, and Identifying Divergences between the two – UNM SPA and Staff – 5:50 – 6:45 p.m
4. Discussion of Proposed Roadmap and Subcommittees – Fabrizio Bertoletti – 6:45 – 7:25 p.m
5. Announcement of Upcoming Meetings – 7:25 p.m
6. Other Business – 7:25 p.m
7. Meeting Adjourned – 7:30 p.m

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the Council Office as soon as possible before the meeting date at 505-768-3100 or by the TTY at 1-800-659-8331.

POLICE OVERSIGHT TASKFORCE

AGENDA

Wednesday, October 30th, 2013

5:30 p.m. – 7:30 p.m.

Albuquerque City Council Committee Room- 9th Floor of City Hall

1. Call Meeting to Order – Andrew Lipman – 5:30 p.m
2. Public Comment – 5:35 – 5:45 p.m.
3. Approval of Summary Minutes - 5:45- 5:50 p.m.
4. Presentation by Police Oversight Commissioners, David Cameron and Jonathan Siegel- 5:50- 6:20 p.m.
5. Presentation by the Independent Review Officer, Robin Hammer - 6:20- 6:50 p.m.
6. Appointment of Subcommittees - 6:50-7:10 p.m.
7. Approval of Subcommittee Appointments - 7:10-7:15 p.m.
8. Announcement of Upcoming Meetings - 7:15-7:20 p.m.
9. Other Business - 7:25 p.m.
10. Meeting Adjourned - 7:30 p.m.

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the Council Office as soon as possible before the meeting date at 505-768-3100 or by the TTY at 1-800-659-8331.

POLICE OVERSIGHT TASKFORCE

AGENDA

Wednesday, November 6, 2013

5:30 p.m. – 7:30 p.m.

Albuquerque City Council Committee Room- 9th Floor of City Hall

1. Call Meeting to Order - 5:30 p.m.
2. Approval of Agenda - 5:30-5:35 p.m.
3. Public Comment - 5:35-5:45 p.m.
4. Approval of Summary Minutes - 5:45-5:50 p.m.
5. Subcommittee Process & Guidance - 5:50-6:30 p.m.
6. Discussion – Attorney for Task Force - 6:30-6:40 p.m.
7. Discussion- Task Force compliance with IPRA requests - 6:40-6:50 p.m.
8. Presentation on the Status of MGT 2011 Report Recommendations - 6:50-7:20 p.m.
    a. IRO
    b. APD/IA
    c. Council
9. Announcement of Upcoming Meetings - 7:20-7:25 p.m.
10. Other Business - 7:25 p.m.
11. Meeting Adjourned - 7:30 p.m.

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the Council Office as soon as possible before the meeting date at 505-768-3100 or by the TTY at 1-800-659-8331.

POLICE OVERSIGHT TASKFORCE

AGENDA

Wednesday December 4, 2013

5:30 p.m. – 7:30 p.m.

Albuquerque City Council Committee Room- 9th Floor of City Hall

1. Call Meeting to Order – Andrew Lipman – 5:30 p.m.
2. Approval of Agenda – 5:30 – 5:40 p.m.
3. Approval of Summary Minutes – 5:40 – 5:50 p.m.
4. Public Comment – 5:50 – 6:00 p.m.
5. Process to Request Legal Advice from Independent Counsel – Council Staff – 6:00 – 6:10 p.m.
6. Reports of Subcommittees – 6:10 – 6:30 p.m.
7. Facilitation Process for Recommendations – Timothy Karpoff – 6:30 – 7:15 p.m.
8. Announcement of Upcoming Meetings – 7:15- 7:20 p.m.
9. Other Business – 7:20 – 7:30 p.m.
10. Meeting Adjourned – 7:30 p.m

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the Council Office as soon as possible before the meeting date at 505-768-3100 or by the TTY at 1-800-659-8331.

POLICE OVERSIGHT TASKFORCE

AGENDA

Wednesday January 8, 2014

5:30 p.m. – 8:30 p.m.

DMD Conference Room, City Hall, 7th Floor Room 7096

1. Call Meeting to Order – Andrew Lipman – 5:30 p.m.
2. Approval of Agenda – 5:30 – 5:35 p.m.
3. Approval of Summary Minutes – 5:35 – 5:40 p.m.
4. Public Comment – 5:40 – 5:50 p.m.
5. Discussion – Final Town Hall meeting – 5:50 – 6:00 p.m.
6. Recommendation Facilitation – Timothy Karpoff – 6:00 – 8:10 p.m
7. Announcement of Upcoming Meetings – 8:10- 8:15 p.m.
8. Other Business – 8:15 – 8:30 p.m.
9. Meeting Adjourned – 8:30 p.m

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the Council Office as soon as possible before the meeting date at 505-768-3100 or by the TTY at 1-800-659-8331.

POLICE OVERSIGHT TASKFORCE

AGENDA

Wednesday, January 15, 2014

5:30 p.m. – 8:30 p.m.

Council Committee Room, City Hall, 9th Floor Room 9081

1. Call Meeting to Order – Andrew Lipman – 5:30 p.m.
2. Approval of Agenda – 5:30 – 5:35 p.m.
3. Approval of Summary Minutes – 5:35 – 5:40 p.m.
4. Public Comment – 5:40 – 5:50 p.m.
5. Recommendation Facilitation – Timothy Karpoff – 5:50 – 8:15 p.m
    a. Consider Draft Recommendations from January 8 Meeting
    b. Deliberation on Remaining Issues & Additional Recommendations
6. Announcement of Upcoming Meetings – 8:15- 8:20 p.m.
7. Other Business – 8:20 – 8:30 p.m.
8. Meeting Adjourned – 8:30 p.m

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the Council Office as soon as possible before the meeting date at 505-768-3100 or by the TTY at 1-800-659-8331.

APPENDIX H:

MINUTES

Police Oversight Task Force
August 20, 2013
5:30 p.m.

Summary Minutes

Members present:
Hans Erickson
Ralph Arellanes
Nancy Koenigsberg
Edmund Perea
Frances Armijo
Andrew Lipman
Craig Loy
Alan Wagman
Julia Kennedy
Fabrizio Bertoletti

Council staff present:
Jon Zaman
Chris Melendrez
Jessica Gonzales
Julian Moya
Crystal Ortega
Mandi Hinojos

Members excused:
Peter Simonson (Steve Allen attended on his behalf as a non-voting member.)

Others present:
Brad Winter, City Councilor, District 4
Dr. Bruce Perlman, Director, School of Public Administration, UNM

1. Call meeting to order – Jon Zaman

   Mr. Zaman called the Task Force meeting to order at 5:35 p.m.

2. Welcoming Remarks – City Councilors Winter and Garduño

   Councilor Winter thanked the members for serving on the Task Force, and added the goal of the ordinance is to have an oversight process that is fair, balanced, and provides transparency to the public.

3. Selection of Chair and Vice Chair.

   After a series of votes, Andrew Lipman was appointed Chair by a vote of 6 to 5.

   For: Arellanes, Erickson, Koenigsberg, Lipman, Simonson, and Wagman
   (Mr. Simonson voted via teleconference)
   Against: Armijo, Bertoletti, Kennedy, Loy, and Perea

   Hans Erickson was appointed Vice Chair by a vote of 5 to 4.

   For: Armijo, Bertoletti, Erickson, Kennedy, and Loy
   Against: Arellanes, Koenigsberg, Perea, and Wagman
   Excused: Simonson
   Recused: Lipman

4. Public Comment:

   Art Tannenbaum addressed the Task Force regarding the POC needing to have a good relationship with the community and law enforcement, along with required training. He added the POC should be fair and independent.

   Silvio Dell 'Angela addressed the Task Force regarding the current POC not providing accountability and transparency.

   Dr. Harold Bailey, Ph.D. addressed the Task Force regarding not having Africans, Asians, and Native Americans represented on the Task Force.

   Kenneth Ellis addressed the Task Force regarding having Police accountability.

   Andres Valdez addressed the Task Force regarding the selection process of the Task Force members.

   Karen Café addressed the Task Force regarding not having a youth advocate represented on the Task Force, and required training for members on the POC.

   Chair Lipman stated the process of the Task Force will be fair and balanced, and encouraged the public to attend and participate in all the meetings. He added the goal of the Trask Force is to build a better community.

5. Task Force Responsibility – Jon Zaman

   Mr. Zaman reported the Task Force is to review the history and evolution of the existing police oversight system by reviewing the results and recommendations of:

1997 Walker/Luna study

2006 MGT study

2011 MGT study

The UNM School of Public Administration is currently preparing summaries of and a presentation on all of these reports for the Task Force. It may also be possible to bring in MGT or the original authors of the Walker/Luna report for a presentation and questions and answers.

The Task Force will need to develop a thorough understanding of the existing police oversight system and best practices and oversight models from other cities. Per R-13-143, the Task Force is to receive briefings and presentations from subject matter experts, which might include presentations by:

Members of the existing Police Oversight Commission

The City's existing Independent Review Officer

National experts in the field of police oversight, including specialists from the National League of Cities or the Municipal League

Other subject matter experts suggested by the Task Force

The Task Force will need to hold at least three Town Hall meetings, and, as suggested by the UNM School of Public Administration, a virtual meeting, to hear comments or suggestions for improving the oversight process from members of the public.

The Task Force will need to provide the City Council with its recommendations for improving the police oversight process by the end of December 2013.

And finally, the Task Force will hold its meetings in compliance with the State Open Meetings Act. Mr. Melendrez, the City Council's staff attorney, gave a brief presentation on the Open Meetings Act and its application to the Task Force.

6. Open Meetings Act Resolution – R-1-2013 - Chris Melendrez

Mr. Melendrez reported the Police Oversight Task Force is subject to the State Open Meetings Act, commonly referred to as OMA. A copy of the Open Meetings Act was provided and he encouraged the Task Force to review it and contact him with any questions. He added that the Attorney General has an OMA guide available on its website which is very helpful to understanding the law.

OMA is a state law often referred to as a “sunshine law,” which generally requires that public business be conducted in public view. He noted there are some exceptions for when a meeting may be closed to the public but none apply to this task force.

All of the meetings of a quorum of the Task Force will be considered public meetings and the public is encouraged to attend and listen. Task Force members should avoid discussing Task Force business with a quorum of members outside of these public meetings, whether you are all gathered in the same place or emailing or calling one another on the same matters.

OMA requires that all public meetings be published, and that any agendas also be provided at least 72 hours in advance. It also requires this Task Force to adopt an open meetings resolution that describes the type of “reasonable” notice it intends to provide for its meetings.

An open meetings resolution was provided to the Task Force by Council Staff for adoption.

The OMA resolution proposed that the Task Force’s public forums be noticed to the public as far in advance as possible, but no less than ten days in advance. It also proposed that the Task Force’s regular meetings be noticed at least ten days in advance. As previously noted, any meeting agendas would need to be made available to the public at least 72 hours in advance.

Pursuant to OMA, minutes of these meetings will be taken in the form of an audio recording, and these can be transcribed if necessary. Both the recordings and any transcriptions are public records subject to inspection. The Task Force would need to act to approve the draft minutes at its next meeting. The minutes are public records even in their draft form.

Mr. Bertoletti asked about a rolling quorum. Mr. Melendrez gave an example of how a rolling quorum may occur through phone communications among task force members and stated it is a violation of OMA.

Motion by Mr. Arellanes to approve R-1-2013, seconded by Ms. Armijo. The motion carried unanimously.

7. UNM’s School of Public Administration (SPA) – Bruce Perlman

Dr. Perlman reported the School of Public Administration will provide staff assistance to the City Council and the Task Force with regards to general public

policy research, program evaluation, synopsis and summary to important documents, and drafting of the final report.

Mr. Lipman and Mr. Perea asked Council Staff to prepare a draft mission statement of the Task Force. Mr. Zaman responded that he would work with the Chairman in doing so and present it at the next Task Force meeting.

8. Schedule three public forums – Jessica Gonzales and Julian Moya

   After some discussion regarding the availability of Task Force members, Mr. Lipman announced the following public forums:

   - Tuesday, September 3, 2013, at 5:30 p.m. at the North Valley Senior Center
   - Tuesday, September 17, 2013 at 5:30 p.m. at the West Mesa Community Center
   - Thursday, October 17, 2013, location to be determined
   - Scheduling a fourth public forum on a Wednesday at a quadrant not represented
   - Scheduling a virtual town hall meeting.

   Mr. Bertoletti asked for the media and neighborhood associations to be given notice of the public forums. Ms. Gonzales responded that notification was given to the media through a press release and notice was given to the neighborhood associations by the City Council Policy Analysts.

   Ms. Koenigsberg asked about the virtual town hall meeting. Dr. Perlman responded the virtual town hall meeting would be conducted through teleconference and a discussion board. Mr. Lipman asked for a description of the discussion board. Dr. Perlman responded he would work on that.

9. Schedule next meeting.

   Mr. Lipman asked if the final report of the Task Force could be extended. Mr. Zaman responded the extension of the final report requires City Council approval, but it would be possible.

   Mr. Lipman announced the next meeting of the Task Force on Tuesday, September 10, 2013 at 5:30 to 7:00 p.m. in the Council Committee Room with the following items to be on the agenda:

- Report on virtual meeting
- Mission statement sample
- Other resources to review
- Public input beyond public forms
- Website Update

Mr. Zaman reported a Task Force website is being created to include agendas, materials and biographies of the Task Force members.

There was no other business discussed. The meeting adjourned at 7:30 p.m.

x:\city council\share\cl-staff\poc task force documents\8-20-13 poc task force summary minutes.doc

Police Oversight Task Force
September 10, 2013
5:30 p.m.

Summary Minutes

Members present:
Ralph Arellanes
Frances Armijo
Fabrizio Bertoletti
Hans Erickson (via telephone conference)
Julia Kennedy
Nancy Koenigsberg
Andrew Lipman
Craig Loy
Edmund Perea
Peter Simonson
Alan Wagman

Council staff present:
Tony Duran
Jessica Gonzales
Chris Melendrez
Donna Montoya
Julian Moya
Jon Zaman

Others present:

Dr. Bruce Perlman, Director, School of Public Administration, UNM
Robin Hammer, IRO

---

1. Call meeting to order

   Mr. Lipman called the meeting to order at 5:30 p.m.

2. Approval of Agenda

   A motion was made by Mr. Bertoletti to approve the agenda. It was seconded by Mr. Simonson. The motion carried by a vote of 9-0. Mr. Perea was excused.

3. Approval of the Minutes of the August 20, 2013 meeting

   Mr. Lipman asked the members to review the minutes and stated that action would be taken on the minutes at the next meeting of the Task Force.

4. Public Comment

   Silvio Dell ‘Angela addressed the Task Force regarding Police retaliation.

   Kenneth Ellis addressed the Task Force regarding mediation and preliminary hearings.

   Art Tannenbaum addressed the Task Force regarding increasing the members to fifteen.

5. Mission Statement and Vision Statement for the Task Force

   After a brief discussion the Task Force agreed to adopt the following mission statement:

   “The mission of the Police Oversight Task Force, as stated in R-13-143, is to review and recommend to the City Council changes to the City of Albuquerque’s mechanism of police oversight that will improve and ensure accountability, transparency, communication, and mutual trust between the Police and the Community. The Task Force will fulfill its mission engaging citizens in open and transparent public forums, by developing a thorough understanding of the City’s existing police oversight process and potential areas for improvement, by researching best practices and alternative oversight models from around the state and country and by making recommendations on ways to improve the police oversight system to the City Council.”

   A motion was made by Mr. Arrellanes to approve the mission statement. It was seconded by Mr. Simonson. The motion carried by a vote of 8-1.
   Mr. Loy voted no and Mr. Perea was excused.

   Vision Statement

   The Task Force discussed the following Vision Statement:

   “Albuquerque – A City Safe and Secure, With A First Rate Police Department”

   A motion was made by Mr. Arrellanes to approve the vision statement. The motion died for a lack of a second.

6. General Road Map for the Work of the Task Force – Fabrizio Bertoletti

   Mr. Bertoletti gave a brief presentation on the following road map for the work of the Task Force:

   Task 1 – gather and access public sentiment and community perceptions about citizen oversight of police and APD in general.

   Task 2 – Review and evaluate current citizen police oversight functions and roles with respect to effectiveness, efficiency, accountability, allocation of resources, community perceptions and compliance with established Ordinances.

   Task 3 – Receive presentations/briefings by Consultants (MGT, Walker/Luna) and other national experts.

   Task 4 – Gather information; request written reports on status of implementation of recommendations from past studies (MGT, Walker/Luna).

   Task 5 – Gather information on citizen police oversight best practices from other communities.

   Task 6 – Gather information, receive briefings and evaluate APD's Policies, Standard Operating Procedures, personnel relations, cadet recruiting and training.

   Task7 – Develop specific findings and recommendations on all of the above for the final report to the City Council and Administration

   In addition to the road map, Mr. Lipman asked for a work plan for the Task Force to approve. Mr. Bertoletti and Mr. Simonson agreed to create a work plan for the Task Force to approve.
   .

7. Discussion of Potential Future Task Force Briefings

   The Task Force agreed on the following:

   - David Cameron, POC
   - Jonathan Siegel, POC
   - Robin Hammer, IRO
   - MGT of America, Inc.
   - Representative from APD, including Internal Affairs & Police Academy
   - Albuquerque Police Officer's Association

- Andres Valdez, Vecinos United
- Silvio Dell' Angela
- City Attorney, Labor Relations
- Former POC Members
- IRO from a successful POC
- Risk Management
- Disabilities and Mental Illness

Mr. Simonson requested IRO Quarterly reports. Mr. Zaman responded that he will provide the Quarterly Reports to the Task Force.

8. Review of First Town Hall and Discussion of Notice and Publicity for Future Town Halls Meetings.

   In addition to what staff is already doing to publicize the Town Hall meetings, the Task Force suggested the following additional publicity efforts: radio interviews, press conferences, direct calls to media, Public Service Announcements, attendance at coalition and neighborhood meetings, nonprofits and advocacy originations, newspaper ads, following the methods the Department of Justice used to advertised their meetings, Alibi, radio call in shows, and City Web site.

9. Report on Virtual Town Hall – Dr. Bruce Perlman

   Dr. Perlman outlined the following options for virtual town hall meetings:
   - Message board
   - Call in show
   - Cloud Service
   - KNME – tape and broadcast/webcast for a later time
   - KUNM Radio program – free with a three week notice

10. Discussion of Procedural Issues

    - Interaction with media

      Mr. Lipman asked for a motion that the Chair be the spokesperson for the Task Force.

      A motion was made by Ms. Kennedy that the Chair would be the single point of contact with the media. It was second by Ms. Armijo.

      After a lengthy discussion, there was a motion by Mr. Simonson to call the question. It was seconded by Mr. Loy. The motion carried unanimously.

A motion was made by Ms. Kennedy that the Chair would provide all interaction with the media. It was seconded by Ms. Armijo. The motion failed by a vote of 2 – 8. Ms. Kennedy and Ms. Armijo voted yes.

- Email correspondence & the Open Meetings Act

  Mr. Lipman asked the Task Force members not to exchange any ideas by email or in private, and to let him know any items that need to be added to the agenda for discussion.

  A motion was made by Mr. Simonson that the Task Force will abide by the Open Meetings Act. It was seconded by Mr. Loy.

  Mr. Melendrez informed the Task Force that they had already approved an Open Meetings Resolution; the Motion was withdrawn by Mr. Simonson.

- Purpose of Town Hall meetings vs. Task Force Meetings

  Mr. Lipman clarified that the purpose of the Town Hall meetings is to hear from the public. The Task Force meetings are for the members to discuss, debate, express one's opinions, and to share information.

11. Possible Additional Task Force Members/Advisory Board

After a lengthy discussion a motion was made by Mr. Loy to decline adding any new members to the Task Force. It was seconded by Mr. Simonson. The motion carried by a 9-0 vote. Mr. Erickson was excused.

A motion was made by Mr. Arellanes to allow non-voting advisory members to participate in this process. The motion failed by a vote of 2-7. Mr. Arellanes and Mr. Perea voted yes. Mr. Erickson was excused.

Mr. Lipman asked for suggestions from City staff and colleagues as to how to reach out to the public to participate in this process.

Mr. Lipman asked staff to provide the Task Force with recommendations regarding how to reach out to minority communities and hear their concerns.

12. Schedule further Task Force meetings

Mr. Lipman announced the following Task Force and public forums:

Tuesday, September 17, 2013 at 5:30 p.m. at the West Mesa Community Center (public forum)

Wednesday, October 2, 2013 at 5:30 p.m. City Council Committee Room (Task Force meeting)

Thursday, October 17, 2013 at 5:30 p.m. at the Cesar Chavez Community Center (public forum)

Wednesday, October 30, 2013 at 5:30 p.m. City Council Committee Room (Task Force meeting)

13. Other Business

A motion was made by Mr. Wagman to send a message to all City Officials requesting they comply promptly with all IPRA requests related to the purpose of this Task Force, and that they honor the spirit as well as the letter of IPRA and to give a public explanation at the next Task Force meeting for any IPRA and request not timely fulfilled. It was seconded by Mr. Simonson.

Mr. Melendrez expressed concerns about this item being taken up under “Other Business” and noted that given the item wasn’t on the agenda it could not be voted on by the Task Force.

Mr. Wagman withdrew the motion and asked for this item to be added to the agenda for the next Task Force meeting.

There was no other business discussed. The meeting adjourned at 8:30 p.m

x:\city council\share\cl-staff\poc task force documents\9-10-13 poc task force summary minutes.doc

Police Oversight Task Force
October 2, 2013
5:30 p.m.

Summary Minutes

Members present*:
Frances Armijo
Fabrizio Bertoletti
Hans Erickson
Julia Kennedy
Nancy Koenigsberg (via telephone conference)
Andrew Lipman
Craig Loy
Edmund Perea
Peter Simonson
Alan Wagman

Council staff present:
Jon Zaman
Stephanie Yara
Jessica Gonzales
Chris Melendrez
Julian Moya
Mandi Hinojos

Others present:
Dr. Bruce Perlman, Director, School of Public Administration, UNM
Shaun Willoughby, Albuquerque Police Officers Association
Stephanie Lopez, Albuquerque Police Officers Association
Bob Lauder, 2011 MGT Report Project Director

*Reflects members present when the meeting is called to order. Any excused absences will be reflected in actions taken in the summary minutes.

---

1. Call meeting to order

   Mr. Lipman called the meeting to order at 5:40 p.m.

2. Approval of Agenda

   Mr. Lipman asked that a discussion regarding his recent trip to the National Association for Civilian Oversight of Law Enforcement National Conference in Salt Lake City, Utah be added to Other Business, as well as a discussion of a proposed Road Map for the Task Force prepared by the management subcommittee.

Mr. Lipman asked the Task Force if they approved the agenda.
The Task Force voted to approve the agenda 9-0. Mr. Arrellanes was excused.

3. Approval of the Minutes of the August 20, 2013 and September 10, 2013 meetings

Mr. Moya stated the Task Force would be voting to approve the minutes from the August 20, 2013 and September 10, 2013 meetings. There was a mistake on the agenda listing the dates as August 20 and September 17.

Mr. Lipman asked the Task Force if they approved the August 20, 2013 and September 10, 2013 minutes. The Task Force approved the minutes unanimously.

4. Public Comment

Silvio Dell 'Angela addressed the Task Force regarding Police retaliation.

Art Tannenbaum addressed the Task Force regarding the APOA.

Maria Bautista addressed the Task Force regarding more diversity among the members of the Task Force.

Kenneth Ellis addressed the Task Force regarding the importance of lapel cameras.

5. Presentation from the Albuquerque Police Officers Association

Ms. Lopez discussed a number of issues including perceptions of the POC amongst officers, lapel cameras, and officer discipline and training. Mr. Willoughby discussed the Community Survey, which was provided to the members, and addressed key points. Mr. Willoughby stressed the importance of the Collective Bargaining Agreement, especially Sections 20.1.31, 20.1.10, and Articles 6, 10, and 12. After a lengthy discussion with the Task Force, Mr. Lipman thanked Mr. Willoughby and Ms. Lopez for their input.

6. Presentation of the 2011 MGT Report

Mr. Lauder gave a brief overview of the report to the Task Force.

7. IPRA Requests

A motion was made by Mr. Wagman that the Task Force declare to all City Officials that they should promptly comply with all IPRA requests related to the purpose of this Task Force.

After a brief discussion, there was a motion by Mr. Bertoletti to call the question. It was seconded by Mr. Loy. The motion passed with a 7-2 vote. Mr. Wagman and Mr. Erickson voted against. Mr. Arrellanes was excused.

Mr. Wagman's motion to declare to all City Officials that they should promptly comply with all IPRA requests related to the purpose of this Task Force failed with a 1-7 vote. Ms. Koenigsberg voted for, Mr. Wagman abstained, and Mr. Arrellanes was excused.

8. Scheduling future Task Force Meetings

Mr. Lipman opened the floor to suggestions for future Task Force meeting dates.

The Task Force agreed that Wednesdays are the best days for all of the members. Mr. Lipman asked staff to please come up with a schedule, and directed staff to schedule weekly meetings.

9. Other Business

Mr. Bertoletti discussed the Illustrative Road Map which was provided to the members and called on Mr. Perlman to give a brief summary.

Mr. Wagman and Mr. Lipman asked that Task Force members direct any concerns and specific areas of interest to Mr. Zaman to be compiled and made available to all members.

Mr. Lipman stated he recently attended the National Association for Civilian Oversight of Law Enforcement National Conference in Utah and he shared what he learned from that conference, specifically regarding mediation, communication between the community and police, and ways to address bias.

There being no further business, the meeting adjourned at 8:25 p.m.

X:\CITY COUNCIL\SHARE\CL-Staff\POC Task Force Documents\10-2-13 POC Task Force Summary Minutes.doc

Police Oversight Task Force
October 24, 2013
5:30 p.m.

Summary Minutes

Members present*:
Frances Armijo
Fabrizio Bertoletti
Hans Erickson (via telephone conference)
Julia Kennedy
Nancy Koenigsberg
Andrew Lipman
Craig Loy
Edmund Perea
Peter Simonson
Alan Wagman

Members excused:
Ralph Arrellanes

Council staff present:
Jon Zaman
Stephanie Yara
Jessica Gonzales
Donna Montoya

Others present:
Dr. Bruce Perlman, Director, School of Public Administration, UNM

*Reflects members present when the meeting is called to order. Any excused absences will be reflected in actions taken in the summary minutes.

1. Call meeting to order

   Mr. Lipman called the meeting to order at 5:35 p.m.

2. Public Comment

   Mr. Charles Arasim addressed the Task Force regarding a memorandum of law.

   A motion was made by Ms. Koenigsberg to switch agenda items 3 and 4. It was seconded by Mr. Simonson. The motion carried by a vote of 8-0. Mr. Arrellanes and Mr. Perea were excused.

4. Discussion of Proposed Roadmap and Subcommittees

Mr. Bertoletti gave a brief summary on the guiding principles and the charge to the following proposed subcommittees:

- Police Oversight Commission (POC)
- Independent Review Office (IRO)
- Albuquerque Police Department (APD)/Internal Affairs (IA)
- Management and Drafting

Mr. Bertoletti moved adoption of the proposed subcommittee structure and scope.

Mr. Wagman suggested sending a list of priorities for discussion by the sub committees to staff.

Ms. Koenigsberg suggested having a presentation at the next Task Force meeting by members of the Police Oversight Commission and the Independent Review Officer. Mr. Zaman responded that he will make those arrangements.

Mr. Lipman clarified the motion. The motion is to accept the proposed structure (recognizing flexibility), submit to staff priorities for discussion by sub committees, and what sub committees Task Force members would like to serve on.

The motion carried by a vote of 8-0. Mr. Arrellanes and Mr. Perea were excused.

3. Presentation on Decision Flow Charts for the Citizen Complaint Process as described in Ordinance and in POC Rules and Identifying Divergences between the two – UNM SPA and Staff.

Mr. Loy suggested the Task Force review the flow charts and bring forth any question at the next meeting. Ms. Koenigsberg asked for the presentation.

Mr. Lipman suggested that the Task Force hear the presentation.
The Task Force voted 7-1 in favor of hearing the presentation.

Dr. Perlman and Ms. Yara described the flowcharts that describe the Citizen Police Complaint processes as written in the Police Oversight Commission Rules & Regulations and the Police Oversight Ordinance; they also discussed divergences between the Rules and the Ordinance regarding the process.

4. Mr. Loy asked for Agenda Item No. 4 to be revisited.

A motion was made by Mr. Loy that all sub committees elect their own Chairperson. It was seconded by Mr. Simonson. The motion carried by a vote of 9-0. Mr. Arrellanes was excused.

5. Announcement of Upcoming Meetings

Mr. Lipman announced the following POC Task Force meetings:

- October 30, 2013 at 5:30 p.m. in the Council Committee Room.
- November 6, 2013 at 5:30 p.m. in the Council Committee Room.

6. Other Business

Mr. Perea ask that any action on the November 6th POC Task Force meeting be placed at the beginning of the agenda to allow Task Force members to attend the East and Westside Neighborhood Coalition meetings that same evening.

Ms. Koenigsberg asked how the agenda is set. Mr. Zaman responded the agenda is set from items reflected from the previous Task Force meeting and the road map.

There being no further business, the meeting adjourned at 7:34 pm.

x:\city council\share\cl-staff\poc task force documents\10-24-13 poc task force summary minutes.doc

Police Oversight Task Force
October 30, 2013
5:30 p.m.

Summary Minutes

Members present*:
Frances Armijo
Fabrizio Bertoletti
Hans Erickson
Nancy Koenigsberg
Andrew Lipman
Peter Simonson
Alan Wagman

Council staff present:
Stephanie Yara
Jessica Gonzales
Julian Moya
Mandi Hinojos

Members excused:
Ralph Arrellanes
Craig Loy
Edmund Perea

Others present:
Dr. Bruce Perlman, School of Public Administration, UNM
Robin Hammer, Independent Review Officer
Lieutenant Eric Jordan, Albuquerque Police Department
Jonathan Siegel, Police Oversight Commissioner
Richard Shine, Police Oversight Commissioner

*Reflects members present when the meeting is called to order. Any excused absences will be reflected in actions taken in the summary minutes.

---

1. Call to order

   Mr. Lipman called the meeting to order at 5:35 p.m.

   Mr. Lipman stated Police Oversight Commissioner David Cameron would be unable to attend but Richard Shine would be here to address the Task Force in his stead.

2. Public Comment

   Bill Kass addressed the Task Force regarding outside funding sources for police being detrimental.

Don Schrader addressed the Task Force regarding ending excessive police brutality.
Charles Arasim addressed the Task Force regarding problems with replacing all current POC members.

3. Approval of Summary Minutes

Ms. Koenigsberg and Mr. Wagman asked that the October 2 and October 24 summary minutes be amended to reflect a more accurate roll call and requested more detail regarding public comment.

Mr. Bertoletti made a motion to approve the October 2 and October 24 summary minutes as amended. The motion passed unanimously.

4. Presentation by Police Oversight Commissioners, Jonathan Siegel and Richard Shine

Mr. Siegel discussed his thoughts regarding possible ways to amend the ordinance and provided the Task Force members a handout (attached) which detailed his presentation.

Mr. Shine stated he is currently working on possible amendments to the ordinance and discussed key topics he believes should be explored by the Task Force. They include Garrity v. New Jersey and a possible complete restructuring of the POC.

5. Presentation by Robin Hammer, Independent Review Officer and Eric Jordan, APD Internal Affairs

Ms. Hammer gave a brief oral presentation regarding the duties currently performed by her office. She stated that although the process could use some tweaks, she believes it is working. Mr. Jordan stated he works closely with the IRO's office and also believes the process is working. He further stated the POC may be in need of more training to give the members a better understanding of the process.

6. Appointment of subcommittees

Mr. Lipman discussed the subcommittee topic matrix and stated that members still have the opportunity to submit additional information they feel needs to be added and even though the matrix will be posted on the website, changes can still be made to it. He then opened the floor for subcommittee nominations or volunteers.

After a brief discussion regarding subcommittee members and meeting structure, the Task Force decided to split its regular meeting into two parts. In future

meetings, after calling the Task Force to order, the members will break into subcommittees and then reconvene as a whole for the second half of the meeting. Ms. Koenigsburg made a motion to combine the subcommittee meetings with regularly scheduled meetings. The motion passed unanimously.

7. After further input from the members present, Mr. Simonson moved approval of the subcommittees. The motion passed unanimously. The subcommittee members currently are as follows with the exception of excused members yet to volunteer:

   - IRO subcommittee = Bertoletti, Erickson, and Wagman
   - POC subcommittee = Armijo and Simonson
   - APD subcommittee = Loy
   - Management subcommittee = Bertoletti, Lipman, and Simonson

Mr. Wagman made a motion to allow the public to attend subcommittee meetings. The motion passed unanimously.

8. Announcement of upcoming meetings.

   After some discussion, the Task Force members decided Wednesdays were the most convenient day for everyone to schedule meetings. It was agreed to meet every Wednesday through December with the exception of November 27, due to it being the day before Thanksgiving, and December 25, due to it being Christmas day.

9. Other business

   Mr. Wagman requested the following topics be on the next agenda:

   - Public concerns regarding IPRA requests
   - Time during all meetings for each member to speak
   - The District Attorney's opinion on Garrity v. New Jersey
   - The issue of the Task Force having its own attorney

   Ms. Koenigsburg also requested the following topic be on the next agenda:

   - To be provided the information on what the City Council did with the MGT recommendations to the Council.

There being no further business, the meeting adjourned at 7:57 pm.

X:\CITY COUNCIL\SHARE\CL-Staff\POC Task Force Documents\10-30-13 POC Tasl Force Summary Minutes.doc

Police Oversight Task Force
November 6, 2013
5:30 p.m.

Summary Minutes

Members present*:
Frances Armijo
Ralph Arellanes
Fabrizio Bertoletti
Hans Erickson
Nancy Koenigsberg
Andrew Lipman
Craig Loy
Edmund Perea
Peter Simonson
Alan Wagman

Council staff present:
Stephanie Yara
Jessica Gonzales
Julian Moya
Donna Montoya

Others present:
Dr. Bruce Perlman, School of Public Administration, UNM
Robin Hammer, Independent Review Officer
Lieutenant Eric Jordan, Albuquerque Police Department

*Reflects members present when the meeting is called to order. Any excused absences will be reflected in actions taken in the summary minutes.

1. Call to order

   Mr. Lipman called the meeting to order at 5:30 p.m.

   Mr. Lipman announced that Dr. Julia Kennedy resigned from the POC Task Force effective October 31, 2013.

   Mr. Lipman made a motion to require a vote by the Task Force when agenda items are added to future meetings, and added, the agenda will be emailed in advance for review by the Task Force prior to it being publically posted.

Mr. Wagman asked if making motions under “Other Business” is a violation of the Open Meetings Act. Mr. Melendrez responded that he does not know of any instance when an item taken under “Other Business” constitutes a violation of the Open Meetings Act. Mr. Melendrez responded that discussion items for placement on future agendas would likely be acceptable.

After some discussion, Mr. Loy made a motion to call the question. The motion carried by a vote of 8-1.Mr. Erickson voted no.

Mr. Wagman made a motion to require all items to be added to the Task Force agenda by the close of Friday preceding their next meeting. The motion was seconded by Mr. Erickson. The motion failed by a vote of 2-7. Mr. Erickson and Mr. Wagman voted in favor of the motion.

Mr. Wagman made a motion that each Task Force member has an opportunity to add items to the agenda for the following meeting. It was seconded by Ms. Koenigsberg.

After some discussion Mr. Simonson made a motion to call the question. The motion carried unanimously.

Mr. Wagman restated his motion that each Task Force member has an opportunity to add items to the agenda for the following meeting. It was seconded by Ms. Koenigsberg, and carried unanimously.

2. Approval of Agenda

Mr. Arrellanes made a motion to approve the agenda. It was seconded by Mr. Erickson and carried unanimously.

3. Public Comment

Don Schrader addressed the Task Force regarding the overturned conviction of Tony Nelsons, then spoke out against police torture and police brutality

Charlie Arasim thanked Ms. Koenigsberg for amending the minutes to the last meeting to correctly reflect his statements. He addressed ongoing issues at the POC meetings with recording problems and the accuracy of votes taken, conflicts with the IRO at the scene of an officer involved shooting, and referenced a news story from Utah suggesting the POC would fail without integrity and dedication in finding the truth from the District Attorney and Chief of Police.

Silvio Dell ‘Angela addressed the Task Force regarding time limits for general public comment, delay in appointing the Task Force members, Dr. Perlman’s

pay, lack of accomplishments by the Task Force, and the IPRA requests that have not been completed.

4. Approval of Summary Minutes

Ms. Koenigsberg asked on page 3, “Other Business” for the minutes to reflect “To be provided the information on what the City Council did with the MGT recommendations to the Council”.

Mr. Simonson asked that the following subcommittee appointments be corrected:

- IRO subcommittee = Bertoletti, Erickson, and Wagman
- POC subcommittee = Armijo and Simonson
- APD subcommittee = Loy
- Management subcommittee = Bertoletti, Lipman, and Simonson

The following is the updated subcommittee appointments:

- IRO subcommittee = Bertoletti, Erickson, and Wagman
- POC subcommittee = Armijo, Koenigsberg, Perea, and Simonson
- APD subcommittee = Arellanes and Loy
- Management subcommittee = Bertoletti, Lipman, and Simonson

Mr. Loy made a motion to approve the October 30, 2013 summary minutes as amended. It was seconded by Mr. Arellanes, and carried unanimously.

5. Subcommittee Process & Guidance

Mr. Bertoletti reported the Subcommittee Guide (Attachment A) can be used for facilitation and evaluation of the subcommittees.

Ms. Koenigsberg thanked Mr. Bertoletti and the members of the Task Force for their work with the Subcommittee Guide.

6. Discussion – Attorney for Task Force

Mr. Wagman made a motion for the Task Force to request Independent Counsel, which was seconded by Mr. Arellanes.

Mr. Melendrez explained the justification for hiring Independent Counsel was to resolve conflict of interests and provide special expertise, and added the City Attorney will provide the Task Force with a staff person for their meetings.

Ms. Koenigsberg asked how quickly a request can be made for Independent Legal Counsel. Mr. Melendrez responded that he will ask for representatives from the Legal Department to attend the next Task Force meeting.

Mr. Perea asked if this process is already in place. Mr. Melendrez responded a Council attorney is in place but not from the City Attorney's Office.

Mr. Loy stated the Task Force is under the authority of the City Council who has their own attorney and also the Legal Department.

Mr. Perez asked how long it would take to hire an independent counsel. Mr. Melendrez responded that the City Attorney has an approved list of attorneys available. Mr. Simonson asked if a list of questions can be submitted to an attorney on the approved list. Mr. Melendrez responded yes.

Mr. Wagman made a motion to hire an Independent Legal Counsel not currently employed by the City, which was and seconded by Mr. Perea.

Mr. Lipman clarified that Mr. Wagman's motion was to request the City Attorney be present at the next Task Force meeting to explain the process for obtaining outside counsel. The motion carried unanimously.

Mr. Lipman directed staff to add this item to the agenda for the next Task Force meeting and request staff from the Legal Department to be present.

7. Discussion – Task Force compliance with IPRA requests

Mr. Wagman stated the City Council Office received two IPRA requests with regard to how the POC Task Force was formed, and response had not been provided in the timely manner that is required by law. Ms. Yara responded that the City Council Office did receive two IPRA requests from Silvio Dell 'Angela. Laura Mason, Director of Council Services, did respond to both IPRA requests via email since documents do not exist. Mr. Wagman asked if the IPRA requests were fulfilled. Mr. Melendrez responded yes.

Mr. Melendrez reported that the Task Force will not be asked to respond to IPRA requests.

8. Presentation on the Status of MGT 2011 Report Recommendations

   a. IRO

      Ms. Hammer gave a brief presentation on the recommendations by MGT and the current status of those recommendations. (Attachment B).

Mr. Lipman asked the Task Force to review (Attachment C) and bring forth any questions at their next meeting.

Mr. Lipman changed the order of the next two items.

c. Council

Ms. Yara reported that the City Council funded a full time Analyst position and created a Task Force to recommend changes to the POC Ordinance.

Ms. Koenigsberg asked if the City Council reviewed the adopted MGT recommendations. Ms. Yara responded that the process is reviewed every four years, and the action by the City Council was "Receipt Be Noted" since it is a report. Ms. Yara added that copies are available of the discussion at the City Council and Study Session for review by the Task Force.

APD/IA

Lieutenant Eric Jordan reported on the following recommendations by MGT:

- Develop criteria to establish times for Internal Affairs (IA) and staff
- Limit staff IA cases not CPC, which is not currently being done. The IRO has the authority to assign CPC investigations to IA

Mr. Simonson asked why the IA would investigate complaints. Mr. Lipman responded that the IRO previously stated the lack of staff to investigate all complaints filed.

Mr. Perea asked why MGT recommendations have not been implemented. Lieutenant Jordan responded that bids have been submitted to purchase software for an early intervention system.

Mr. Wagman expressed concern with the City Council having a history that is documented in the MGT Report as not following recommendations.

Ms. Armijo asked if one of the recommendations by MGT is to increase staff in the IRO's Office. Ms. Hammer responded yes, an analyst position.

9. Announcement of Upcoming Meetings

Mr. Lipman announced the following upcoming POC Task Force Meetings:

Wednesday, December 4th, Council Committee Room, 9th Floor

Wednesday, December 11th, DMD Conference Room, 7th Floor

Wednesday, December 18th, Council Committee Room, 9th Floor

Mr. Lipman announced that after this meeting adjourned, the sub committees would reconvene, elect a chair, and schedule their upcoming meetings.

Mr. Erickson asked for the City Council's website to state that the sub committees are open to the public. Ms. Yara responded that she will update the Council website.

10. Other business

Mr. Lipman announced that an outside facilitator will be attending the next Task Force Meeting.

Mr. Simonson made a motion to add to the next Task Force agenda an item to extend the deadline to submit the final report to the City Council. It was seconded by Mr. Erickson. The motion carried unanimously.

Ms. Koenigsberg asked about staffing the subcommittee meetings. Ms. Yara responded that it would be difficult for Council staff to staff all the subcommittee meetings. Ms. Koenigsberg requested that all subcommittee meetings be in City Hall and posted on the City council website.

Mr. Erickson made a motion to request at the December 4th meeting a representative from the 2nd Judicial District Attorney's Office/Criminal Division to explain how they treat investigations of potential criminal conduct by a police officer; specifically with regards to garret and casita. It was seconded by Mr. Arellanes. The motion carried by a vote of 8-1. Mr. Bertoletti voted no.

Mr. Erickson volunteered to draft a letter to the District Attorney's Office.

11. Meeting Adjourned

There being no further business, the meeting adjourned at 7:50 pm.

Police Oversight Task Force
December 4, 2013
5:30 p.m.

Summary Minutes

Members present*:
Frances Armijo
Ralph Arellanes
Fabrizio Bertoletti
Nancy Koenigsberg
Andrew Lipman
Craig Loy
Edmund Perea
Peter Simonson
Alan Wagman
Leonard Waites

Council staff present:
Stephanie Yara
Jessica Gonzales
Julian Moya
Mandi Hinojos
Chris Melendrez

Others present:
Dr. Bruce Perlman, School of Public Administration, UNM
John DuBois, Legal Department
Timothy Karpoff

*Reflects members present when the meeting is called to order. Any excused absences will be reflected in actions taken in the summary minutes.

---

1. Call to order

   Mr. Lipman called the meeting to order at 5:35 p.m.

2. Approval of Agenda

   Mr. Bertoletti made a motion to approve the agenda. The motion passed unanimously.

3. Approval of Summary Minutes

   Mr. Loy made a motion to approve the November 6, 2013 summary. The motion passed unanimously.

4. Public Comment

Dinah Vargas expressed her concerns regarding past or present law enforcement serving on the Task Force or the Police Oversight Commission. She stated it may create bias amongst the members.

Charlie Arasim thanked Mr. Wagman for his comments at the Task Force subcommittee meeting and to the City Council defending the public right to free speech. Mr. Arasim recommended the City Council set up an independent board to review all ordinances before they are voted on. He further stated he would like to see Robin Hammer step down as the Independent Review Officer.

Mike Alvarez addressed the Task Force regarding police brutality and the lack of discipline officers receive for infractions. He also stated the complaint process needs to be reviewed and made clear to citizens.

Mr. Lipman introduced Mr. Waites as the new Task Force member.

5. Process to Request Legal Advice from Independent Counsel

Mr. Melendrez and Mr. DuBois discussed the City's contract for legal counsel. Mr. DuBois stated the city has a contract for legal services and there are few occasions that would allow for outside counsel, for example a conflict of interest or if the City has no attorney with the expertise or time needed for a certain case. The process would be to put those legal questions in writing and provide that to the City Attorney to be determined if outside counsel is needed.

Mr. Lipman asked if the city legal department were to be involved in matters pertaining to the police officers association would constitute a conflict of interest. Mr. DuBois stated no, he doesn't believe that would constitute a conflict of interest.

Mr. Wagman asked about David Tourek assisting in drafting a recommendation regarding the IRO, could his assistance be unbiased and without conflict. Mr. DuBois stated yes, it is possible and recommended.

6. Reports of Subcommittees

Mr. Wagman gave a report of the IRO Subcommittee (attached).

Mr. Simonson gave a report of the POC Subcommittee report (attached).

Mr. Arellanes gave a report of the APD Subcommittee. He stated he did not have a report to hand out at this time but explained that the discussions with Mr. Loy will continue and they could have something in writing soon.

7. Facilitation Process for Recommendations

Mr. Karpoff introduced himself to the Task Force and gave a brief summary of his background and expertise. He provided the Task Force with a handout (attached) and discussed his idea for moving forward efficiently.

Ms. Koenigsburg made a motion to engage Mr. Karpoff as facilitator to the Task Force. The motion passed unanimously.

8. Announcement of Upcoming Meetings

Mr. Lipman suggested the Task Force keep its scheduled meeting dates in December and possibly add a date to hold an all-day retreat.

Mr. Wagman stated he felt the Task Force should no longer meet in subcommittees and should continue to move forward in facilitated meetings.

Mr. Loy stated he would like to see the subcommittees meet again to finish the work that was started. Mr. Waites agreed, stating that in listening to the subcommittee reports, he feels they covered more ground than full Task Force meetings.

After some discussion, Mr. Wagman made a motion to keep the scheduled Task Force meeting dates, December 11 and 18, 2013 and January 8 and 15, 2014. The motion passed by a 9-1 vote. Mr. Perea voted against, Mr. Erickson was excused.

9. Meeting Adjourned

There being no further business, the meeting adjourned at 7:40 pm.

Police Oversight Task Force
December 11, 2013
5:30 p.m.

Summary Minutes

Members present*:
Frances Armijo
Ralph Arellanes
Hans Erickson
Nancy Koenigsberg
Andrew Lipman
Craig Loy
Edmund Perea
Peter Simonson
Alan Wagman
Leonard Waites

Council staff present:
Stephanie Yara
Julian Moya
Donna Montoya

Others present:
Dr. Bruce Perlman, School of Public Administration, UNM
Timothy Karpoff

*Reflects members present when the meeting is called to order. Any excused absences will be reflected in actions taken in the summary minutes.

1. Call to order

   Mr. Lipman called the meeting to order at 5:43 p.m.

2. Approval of Agenda

   Mr. Loy made a motion to approve the agenda. It was seconded by Mr. Waites.

   Ms. Koenigsberg made a motion to discuss the article in the newspaper with regard to the Police contract as the first discussion item on today's agenda. It was seconded by Ms. Armijo.

   Mr. Lipman stated the following three items will be discussed under "Other Business":

- Newspaper Editorials
- Email by Hans Erickson
- Email by Linda Donahue

After a brief discussion, Mr. Lipman called the question on the motion by Ms. Koenigsberg. The motion carried unanimously (Mr. Bertoletti is excused).

Mr. Wagman moved that Public Comment be added to the agenda. It was seconded by Mr. Arellanes.

Mr. Lipman reminded the members that at their last meeting it was stated that no public comment would be on today's agenda, and that it should have been reflected in the minutes.

Ms. Armijo reminded the members of all the opportunities that were allowed for public comment.

Mr. Lipman called the question on the motion by Mr. Wagman. The motion failed by a vote of 3 – 6. (Yes: Arellanes, Wagman, Waites. Mr. Bertoletti is excused).

3. Approval of Summary Minutes

Mr. Loy made a motion to approve the November 6, 2013 summary minutes. It was seconded by Mr. Perea. The motion carried unanimously. Mr. Bertoletti is excused.

Discussion ensued on the Newspaper Article regarding the Police contract.

Mr. Lipman expressed concern that some of the recommendations from the Task Force may be in conflict with the Police contract.

Mr. Loy stated the Task Force needs to continue to do what it's charged with and move on.

Mr. Erickson expressed concern that the Mayor/Administration did not take in to consideration the work of the Task Force as it relates to the APOA negotiations.

After a brief discussion, a motion was made by Mr. Simonson for the City Council to urge the Mayor's Office to engage in contract negotiations with APD in such a way that it does not hamper the ability of the POC to exercise its oversight function of the Police Department. It was seconded by Mr. Arellanes.

Mr. Loy stated that he does not support the motion because Police Officers have gone without a pay raise for the past two years and there is no concession for retired Police Officers.

Mr. Wagman expressed concern with certain terms in the contract that violates the ordinance.

Ms. Koenigsberg made a friendly amendment that in order to facilitate the work of the Task Force to make recommendations and to recognize the Police Officers attempts to negotiate pay raises, the City Council should recommend to the Mayor to deal with the budgetary issues and stay the negotiations on the rest of the contract, until the Task Force submits their recommendations to the City Council. The friendly amendment was accepted by Mr. Simonson.

After a brief discussion, Mr. Lipman called on Mr. Simonson's motion.
The motion carried by a vote of 9-1 (Against: Mr. Loy. Mr. Bertoletti is excused)

Ms. Koenigsberg volunteered to draft the letter to the City Council and have a discussion on it at the next Task Force meeting.

4. Address from POC Commissioner Major William Barker

Major Barker gave a brief presentation on his role and experience as a POC Member.

Mr. Perea asked what the primary role of a POC member should be. Major Barker responded that oversight, transparency, and protecting the public were of primary importance.

Mr. Lipman asked if the POC should review every case. Major Barker responded that the IRO does a good job in reviewing the cases and he concurs with this process.

Mr. Wagman asked if cases can be resolved through mediation. Major Barker responded the cost would be high.

Ms. Armijo asked if the training is adequate. Major Barker responded yes.

5. Recommendation Facilitation – Timothy Karpoff

Mr. Karpoff ran a facilitated discussion on the key questions that the Task Force's recommendations must address. See attachment A on the work which was produced.

6. Announcement of Upcoming Meetings

Mr. Lipman announced the following POC Task Force Meetings:

- December 18, 2013, 5:30 p.m., Council Committee Room
- January 8, 2014, 5:30 p.m., CIP Conference Room

- January 15, 2014, 5:30 p.m., 8th Floor
- January 29, 2014, 5:30 p.m., location to be determined.

Ms. Koenigsberg made a motion to schedule three hour meetings. It was seconded by Mr. Wagman. The motion carried unanimously. Mr. Bertoletti is excused.

Mr. Wagman suggested scheduling two meetings at the end of January to review the Task Force final recommendations to the City Council.

7. Other Business

Mr. Lipman asked the members if he should respond to Linda Donahue's email. After a brief discussion the Task Force agreed not to respond.

Mr. Lipman asked the members to not send out individual emails on behalf of the Task Force.

The Task Force began discussing the approval process for their recommendations.

Mr. Wagman excused himself from the meeting for the following discussion since it was not posted on the agenda.

Mr. Loy made a motion that a super majority is two thirds of the members present on the final recommendations to the City Council from the PO Task Force. It was seconded by Mr. Simonson. The vote resulted in a tie (Yes: Koenigsberg, Loy, Perea, and Simonson. Against: Arellanes, Armijo, Hans, and Waites. Mr. Bertoletti is excused. Mr. Wagman stepped out of the room during the vote and returned immediately after the vote was taken.).

Mr. Lipman voted yes to break the tie. The motion carried.

There being no further business, the meeting adjourned at 9:04 p.m.

x:\city council\share\cl-staff\poc task force documents\12-11-13 poc summary minutes.docx

Attachment A

City of Albuquerque Police Oversight Task Force • Work Product: December 11, 2013 Task Force Meeting

Focus Question: *What are Key Questions or Problems the POTF's Recommendations Must Address?*

(Primary questions are in headers; contributing ideas are in bullets in the columns beneath; number of contributing ideas does not suggest a hierarchy or priority ordering.)

How Independent should the oversight process be and what authority should it have?	How do we maximize the impact of the oversight process on police practice?	How can the oversight process Improve trust between APD and the community?	How can we staff a credible citizen review process?	How do we assure funding [of the oversight process] that is sufficient and protected?	How do we build In monitoring of the oversight process's effectiveness?	How can the POTF increase the potentialof its recommendations being adopted?
• What should the relationship between the IRO, POC, Chief and Mayor be? • Who has discipline authority? • How can the oversight process have greater independence? • A lack of trust (from the public) that investigations are adequate and fair. • Who picks the members of the POC?	• How can the oversight process impact police practice to reduce unreasonable use of deadly force? • Lack of trust that the POC will try to correct patterns of abusive behavior. • The oversight process must identify and address systemic issues. • How to maximize the effectiveness of the oversight body?	• How does the oversight process promoteAPD accountability and transparency? • APD,POC and IRO accountability to the public. • How to improve civilian-APD relations?	• Qualifications, training, attendance and selection of POC and IRO/staff-lack of trust from APD. • Lack of trust between officers and POC.	• Funding: independent and sufficient. • Does the POTF have real power and influence?	• [stand-alone question]	• What needs to change (in the overall process)? • What needs to stay the same? • What is our overall statement of intent (to reduce chance for later misinterpretation ?

Police Oversight Task Force
December 18, 2013
5:30 p.m.

Summary Minutes

Members present*:
Frances Armijo
Ralph Arellanes (Telephonic)
Hans Erickson
Nancy Koenigsberg
Andrew Lipman
Craig Loy
Edmund Perea
Peter Simonson
Alan Wagman
Leonard Waites

Council staff present:
Stephanie Yara
Julian Moya
Chris Melendrez
Mandi Hinojos

Excused:
Fabrizio Bertoletti

Others present:
Dr. Bruce Perlman, School of Public Administration, UNM
Timothy Karpoff

*Reflects members present when the meeting is called to order. Any excused absences will be reflected in actions taken in the summary minutes.

---

1. Call to order

   Mr. Lipman called the meeting to order at 5:37 p.m.

2. Approval of Agenda

   Mr. Loy made a motion to approve the agenda. The motion passed unanimously.

3. Reconsideration of Supermajority rule for POTF Recommendations.

Ms. Koenigsberg moved to reconsider a motion made by Mr. Loy at the last meeting which stated that a supermajority, which is two thirds of the members present, be required to send final recommendations of the Task Force to the City Council. The motion passed on a six to three vote. Mr. Loy, Ms. Armijo, and Mr. Perea voted against, Mr. Bertoletti was excused.

Mr. Melendrez stated that according to Council rules of procedure, a supermajority of the Task Force would be seven members.

After brief discussion, Mr. Lipman restated a motion made by Mr. Loy to require a supermajority vote to send Task Force recommendations to the City Council. The motion failed on a two to seven vote. Mr. Loy and Mr. Perea voted in favor. Mr. Bertoletti was excused.

4. Clarification on Accepting Public Comment

Mr. Lipman gave a short recap of the discussion at the last meeting regarding public comment. After a brief discussion among the members, Mr. Loy made a motion to no longer hear public comment at Task Force meetings. The motion failed on a two to six vote. Mr. Loy and Ms. Armijo voted in favor. Mr. Bertoletti and Mr. Arellanes were excused.

Mr. Lipman opened the floor to the public for comment with a two minute limit.

Mr. Arasim addressed the Task Force regarding stringent qualification requirements for police officers and Police Oversight Commission members. He also urged the Task Force to view his emails and videos.

Mr. Niemyjski addressed the Task Force regarding outside influence on the Task Force.

5. Approval of Summary Minutes

Mr. Wagman pointed out a correction on page four. Mr. Lipman made a motion to approve the December 11, 2013 summary minutes as corrected. The motion carried unanimously. Mr. Bertoletti and Mr. Arellanes were excused.

6. Address from POC Chair David Cameron

Mr. Cameron introduced himself to the Task Force and stated he looked forward to reaching the POC and the POTF's mutual goal of strengthening the police force and regaining community respect in Albuquerque.

Discussion ensued on the ways to identify issues and possible solutions in order to achieve the aforementioned mutual goal.

7. Letter to Mayor Regarding APOA Contract Negotiations

Ms. Koenigsberg distributed a letter she drafted asking the City Council to urge the Mayor's office to engage in contract negotiations with APD in such a way that it does not hamper the ability of the POC to exercise its oversight function of the Police Department by dealing with budgetary issues and staying the negotiations on the rest of the contract until the Task Force submits their recommendations to the City Council.

After a brief discussion, Ms. Koenigsberg made a motion to accept the letter. The motion failed on a four to four vote. Mr. Erickson, Ms. Koenigsberg, Mr. Waites, and Mr. Wagman voted in favor. Ms. Armijo, Mr. Loy, Mr. Perea, and Mr. Simonson voted against. Mr. Arellanes and Mr. Bertoletti were excused.

Mr. Wagman made the following friendly amendments:

- Paragraph 1, line 5, before “City Council” insert “members of”.
- Paragraph 1, line 5, after “City Council” insert individually.
- Paragraph 1, line 7, after “negotiations” insert “and ratification”.
- Paragraph 1, line 10, delete “negotiations” and insert in lieu thereof “ratification”.
- Paragraph 1, line 13, delete “at your January 22, 2014 meeting” and insert in lieu thereof “by the end of January”.
- Paragraph 3, line 23, before “City Council” insert “members of”.
- Paragraph 3, line 23, after “City Council” insert “individually”.
- Paragraph 3, lines 23 and 24, delete “stop negotiations with the APOA on” and insert in lieu thereof “refrain from ratifying”.

Mr. Wagman made a motion to accept the letter as amended. The motion passed on a six to two vote. Ms. Armijo and Mr. Loy voted against. Mr. Arellanes and Mr. Bertoletti were excused.

8. Recommendation Facilitation – Timothy Karpoff

Mr. Karpoff ran a facilitated discussion on the key questions that the Task Force’s recommendations must address.

9. Announcement of Upcoming Meetings

Mr. Lipman announced the following POC Task Force Meetings:

- January 15, 2014, 5:30 p.m., 8th Floor
- January 29, 2014, 5:30 p.m., location to be determined.

10. Other Business

Mr. Lipman made a motion to add an item to the agenda of the next Task Force meeting. That item being to send all Task Force Documents to the lead investigator from the DOJ. The motion failed on a two to six vote. Ms. Koenigsberg and Mr. Simonson voted in favor. Mr. Arellanes and Mr. Bertoletti were excused.

Mr. Lipman made a motion to add an item to the agenda of the next Task Force meeting. That item being a discussion on whether to hold a town hall on the Task Force recommendations. The motion passed on a seven to one vote. Mr. Loy voted against. Mr. Arellanes and Mr. Bertoletti were excused.

Mr. Waites stated he would like to spend more time in facilitated discussion with Mr. Karpoff at the next Task Force meeting. The other members agreed.

There being no further business, the meeting adjourned at 8:40 p.m.

Police Oversight Task Force
January 8, 2014
5:30 p.m.

Summary Minutes

Members present*:
Frances Armijo
Ralph Arellanes
Fabrizio Bertoletti
Hans Erickson
Nancy Koenigsberg
Andrew Lipman
Craig Loy
Edmund Perea
Peter Simonson
Alan Wagman
Leonard Waites

Council staff present:
Stephanie Yara
Jessica Gonzales
Donna Montoya

Others present:
Dr. Bruce Perlman, School of Public Administration, UNM
Timothy Karpoff

*Reflects members present when the meeting is called to order. Any excused absences will be reflected in actions taken in the summary minutes.

---

1. Call to order

   Mr. Lipman called the meeting to order at 5:37 p.m.

2. Approval of Agenda

   Mr. Loy made a motion to approve the agenda. It was seconded by Ms. Armijo. The motion passed unanimously. (Mr. Erickson and Mr. Wagman were excused).

3. Approval of Summary Minutes

   Mr. Loy made a motion to approve the December 18, 2013 summary minutes. It was seconded by Mr. Waites. The motion passed 9-1 (Mr. Bertoletti abstained).

4. Public Comment

Don Schrader addressed the Police Oversight Task Force (POTF) regarding the use of non-deadly weapons, allow more time for police negotiations, childhood post-traumatic stress disorder, and the need for the public to recognize the use of non-violence by police officers.

Tad Niemyjski addressed the POTF regarding City Council Bill R-14-10 “Endorsing The Dr. Martin Luther King Jr. Memorial Center’s Task Force For Public Safety Recommendations Regarding The Selection Of The New Chief Of Police For The City Of Albuquerque”.

Charles Arasim encouraged the POTF to attend the Police Oversight Commission (POC) meeting to listen to the discussion on the emails he submitted, and the appeal that was deferred for the lack of information to the applicant.

Stephanie Lopez addressed the POTF regarding Mr. Lipman’s statements to the media with regards to APD’s problems. Ms. Lopez added the POTF should be unbiased and balanced.

Mr. Lipman reported that he attended the City Council meeting on January 6, 2014, and asked Councilor Sanchez to follow-up on a letter from the POTF to the Mayor. Mr. Lipman also reported that he was invited to attend the Department of Justice (DOJ) meeting which was very well covered by the media, but no findings were presented.

Mr. Simonson stated that the DOJ final recommendations will benefit the Police, and that Mr. Lipman does not have to explain his role as a member of the POTF.

Mr. Lipman stated that he is un-biased, a facilitator, and that he did not say anything inflammatory.

5. Discussion – Final Town Hall meeting

Mr. Lipman announced that the discussion on the final Town Hall meeting will be postponed to a later date.

6. Recommendation Facilitation – Timothy Karpoff

Mr. Karpoff ran a facilitated discussion on the key questions that the POTF’s recommendations must address. (see attachment A)

It was agreed by the POTF to have (attachment A) as the first item on the next POTFagenda for a vote.

7. Announcement of Upcoming Meetings

Mr. Lipman announced the following POTF meetings:

- January 15, 2014, 5:30 p.m., Council Committee Room
- January 21, 2014, 5:30 p.m., Council Committee Room
- January 29, 2014, 5:30 p.m., CIP (7th floor) Conference Room

A motion was made by Mr. Loy to allow Stephanie Lopez to address the POTF. The motion was seconded by Mr. Perea. The motion carried 8-1. (Mr. Erickson voted no, and Mr. Arellanes was excused.

Ms. Lopez thanked the members of the POTF for their service, and reminded them that their recommendations will directly affect Police Officers.

8. Other Business

None

There being no further business, the meeting adjourned at 8:25 p.m.

APPENDIX I:

DOCUMENTS

December 18, 2013

President Ken Sanchez
Albuquerque City Council:

Your Police Oversight Task Force writes this letter asking for your urgent assistance. We are entering the final weeks of our work to provide the City Council with our recommendations regarding ways to improve the City's mechanisms of police oversight. As the current contract negotiations with the Albuquerque Police Officers Association (APOA) impact the work the Task Force is doing, we request that the members of the City Council individually ask Mayor Berry to immediately bifurcate the contract negotiations with the APOA. We believe the administration and the APOA can – and should – complete their negotiations and ratification of the financial package as soon as possible to provide salary increases and create an officer retention incentive program. In order for the work of the Task Force to be meaningful, ratification of the remainder of the contract should be stayed until after the Task Force has submitted our recommendations to the City Council for its consideration and a new Police Oversight Ordinance is in place. The Police Oversight Task Force is scheduled to complete its work for presentation to the City Council by the end of January 2014.

As you know, the contents of the contract negotiations between the administration and the APOA are not public. Some of the contract provisions will likely define aspects of the relationship among the Albuquerque Police Department, the Police Oversight Commission and the Independent Review Office. If the contract is ratified before the City Council receives the Task Force's recommendations, there will be no opportunity for the City's legislative body to hear and consider suggestions addressing those same relationships before they are defined by a new contract. In other words, the contract itself may shape the police oversight process without the public input the City Council had requested.

The Task Force requests that the individual members of the City Council immediately ask Mayor Berry to refrain from ratifying all but the financial portions of the APOA contract until the Task Force has submitted its set of recommendations to the City Council for its consideration and the City Council has passed a new Civilian Police Oversight Ordinance.

On behalf of the Police Oversight Task Force,

Andrew Lipman
Chairperson

ILLUSTRATIVE ROAD MAP: POLICE OVERSIGHT TASK FORCE (POTF) TASKS AND REPORTING

Phase and Activities[1]	Output/Deliverable[2]	Responsible[3]	End Date[4]	Report TOC Correspondence[5]
Phase 1 - Describe Current Processes: Background and Baseline				**Part 1: Introduction**
1. Summarize Current Citizen Complaint Process (CCP) Process	1. Ordinance CCP and Decision Flow Chart • POC Rules Process and Decision Flow Chart • Identification of Divergence	Staff	24 Oct	A. Background o POTF Ordinance o Task Force Formation o Task Force Deliberations
• Briefing on CCP Background to POTF o Collective Bargaining Agreement (CBA) and Human Resource Processes o Section 20 of CBA o Labor Management Relations Ordinance (LMRO) o New Mexico Labor Relations Statutes (NMLRS)		Cameron Siegel Hammer Dubois Subject Matter Experts (SME)	30 Oct	B. Description of Current CCP
2. Summarize Prior Studies o MGT 2011 Report o MGT 2006 o Walker-Luna 1997	2. Summary of Problems Identified in Prior Reports • Summary of Recommendations in Prior Reports o MGT 2011 Report o MGT 2006 o Walker-Luna 1997 o Dell' Angela 2013	Lauder UNM SPA	8 Nov	C. Prior Studies on CCP o MGT 2011 Report o MGT 2006 o Walker-Luna 1997
3. Collection of Citizen Input	3. POTF Town Halls • Virtual Mechanism	Council Staff	Begin 1 Nov	D. Citizen Input on CCP o Town Hall Process o Other Processes
4. Subcommittee Formation	4. Full POTF Action	UNM SPA POTF Action	17 Oct	

Phase and Activities[1]	Output/Deliverable[2]	Responsible[3]	End Date[4]	Report TOC Correspondence[5]
Phase 2: Update on Reforms: Presenting Actions Taken and Needed 1. Reports on Reforms Adopted o POC o IRO o APD 2. Summarize Citizen Input on Changes	1. Presentations on CCP Changes 2. Summary of Citizen Input	Cameron Hammer Banks UNM SPA		**Part 2: Reforms Adopted Prior to POTF** A. CCP Changes and Status o POC o IRO o APD B. Change Rationale C. CCP Citizen Change Requests
Phase 3: Examine Special Issues: Understanding Effects on CCP Process[3] 1. Alternative Models for Oversight 2. Subcommittee Reports	1. Briefing 2. Subcommittee Briefings & Report 3. Subcommittee Briefings & Report 4. Subcommittee Briefings & Report	Walker SMEs SMEs SMEs		**Part 3: Special Issues Outside the Current CCP** A. CCP Relations with Public, Minority, and Special Needs Communities B. CCP Role in Use of Force Options C. CCP Relations with APD and IA D. Effects of CBA & HR on CCP Process
Phase 4: Reporting: Making Recommendations Final and Writing a Report 1. Draft Recommendations 2. Draft Report 3. Review Report 4. Finalize Report 5. Submit Report	1. Draft Recommendations 2. Draft Report 3. Review Report 4. Finalize Report 5. Submit Report	Management Subcomm., POTF UNM SPA Council Staff Full POTF		**Part 4: Recommendations** A. CCP System Changes o POC Practices and Operations o IRO Practices and Operations o APD/IA Interface o Other Offices Interface o Labor Relations Suggestions o Special Issues Suggestions B. Ordinance and Rule Changes C. Resources and Budget D. Timing and Evaluation

NOTES

1. Due to scheduling challenges, activities in phases may overlap run in parallel and are not in strict sequence. For example, the Town Halls run through the entire first phase and may continue into other phases.
2. Outputs/Deliverables are rough ideas of deliverables necessary to summarize work and serve as informational inputs into a final POTF report.
3. Responsible parties are illustrative, but the idea is to make someone responsible for products so that work will get done.
4. End dates are suggestions and illustrative only.
5. This is an illustrative Table of Contents (TOC) for a final POTF report that will capture the work of the committee and encapsulate recommendations for transmittal to the City Council. The TOC is pegged to the POTF deliverables.
6. Subcommittees are illustrative only, but are first consideration of additional issues to be considered that are important to, influenced by, but may reside outside of the CCP. The number of subcommittees was chosen for a roughly equal distribution of POTF members.
7. **Acronyms**

- APD Albuquerque Police Department
- CBA – Collective Bargaining Agreement
- CCP – Citizen Complaint Process
- HR – Human Resource
- IA – Internal Affairs
- IRO – Independent Review Office/Officer
- LMRO – Labor Management Relations Ordinance
- NMLRS – New Mexico Labor Relations Statutes
- POTF – Police Oversight Task Force
- POC – Police Oversight Commission
- SME – Subject Matter Expert
- UNM SPA – University of New Mexico, School of Public Administration

PROPOSED SUB COMMITTEE STRUCTURE AND SCOPE

Guiding Principle: A principle that should be paramount in the committee process is that all subcommittees, assignments, scopes, and recommendations, should be approved by vote of POTF. Also, POTF plenary meeting dates will be scheduled by the full POTF. The POTF Chair shall serve as an ex officio member of all subcommittees.

Main Charge to POTF: Review and make Recommendations on the Citizen Complaint Process (CCP).
The POTF as a whole should be involved in reviewing, making, and adopting recommendations on selection, organization, structure, roles, relations and processes of:

1. Police Oversight Commission (POC)
2. Independent Review Officer (IRO)
3. Albuquerque Police Department (APD)
4. Differences between policy and practice of foregoing (Delta)

A key task for the entire POTF upon receiving recommendations from subcommittees will be to address policy changes that aim to guarantee the responsiveness and accountability of the police oversight process and the CCP. This may take the form of recommendations on transformation of the entire system or changes in specific systemic processes. This would include tracking and feedback mechanisms of the CCP.

Subcommittee Charges
Subcommittees will focus on important contributing issues and processes that provide a framework for the above, such as collective bargaining agreements, labor relations and human resource policies, or that intersect with but may rest outside these processes, such as community relations, use of force, recruiting, or training. Subcommittees should advance any recommendations that the members believe the full POTF ought to consider. Also, it is important to note that subcommittee charges are not confined to peripheral changes in the processes but can and should include policy suggestions that change the CCP to promote accountability and responsiveness. If subcommittees deem it necessary to recommend specific changes to policies, ordinances, rules, regulations, procedures, processes, structures, or other mechanisms, they should do so. Suggested sub committees:

1. **Public Awareness and Opinions of Inputs to the CCP**

The scope for this subcommittee includes issues around ensuring that citizens are aware of and have access to the CCP and other access and process related issues. Also, it includes community interaction and relations of the CCP and involved offices and departments with Special Needs, Disadvantaged and Minority Communities. One focus of this subcommittee will be to look at how the CCP can improve its collection of citizen issues.

2. **Education, Training, and Qualifications of CCP Involved Offices**

The scope for this subcommittee includes all issues involved in ensuring a qualified set of actors and institutions in the CCP process including the ongoing update of knowledge, skills, and abilities for this purpose. The main offices considered are APD, IRO, and POC and their employees, but the scope is not necessarily limited to them and this subcommittee would consider important training related issues such as officer recruitment, selection, use of force, and relations with the APD academy as well as the qualifications and training of the POC members or the IRO.

3. **Frameworks for Accountability, Negotiation, Alternative Dispute Resolution, Collective Bargaining, Labor Relations and Human Resource Management**

The scope for this subcommittee includes all issues pertaining to accountability and negotiating outcomes for all participants in the process including citizens and officers, management and labor, or employees and supervisors, as well as others. This could include review of all mechanisms for accountability including the division of labor among the APD and the IRO and the tracking of complaints and their resolution as well as the monitoring of change in both institutions. Also, it could include examining the potential for mediation or other resolution mechanisms as part of the CCP process, recommendations on the scope of future contractual negotiations, as well as changes in the policies governing relations of the offices under consideration. Labor management relations as well as supervision and related policies such as standard operating procedures might be considered by this subcommittee.

4. **Management and Drafting**

The scope for this subcommittee will touch on the issues related to the management of the POTF process, the management, organization, and funding of the CCP, as well as other pertinent issues related to the management of the offices involved. In addition, it will cover the assembly and drafting of the final POTF recommendations and reporting of them in an acceptable format. This may include drafting a report for approval by the full POTF.

-------- Original Message --------
Subject: Resignation
From: Julia Kennedy <sheltiepaint@yahoo.com>
To: jzaman@cabq.gov,aman328@aol.com
CC:

I am honored to have been selected to serve on the Police Oversight Task Force. I was looking forward to collaborative, colleagial, and productive problem solving.

Had I known about the conference on citizen oversight attended by many involved, in a timely manner, I would have even paid my own way to attend. Unfortunately the Task Force was not even privy to this information in a timely manner.

This is to inform you of my resignation from the Police Oversight Task Force. For several weeks now I have comtemplated resigning due to a lack of organization, goals or productive solution focused problem solving. As I have stated in meetings, I have serious doubts that the current plan can be achieved. I doubt that the current scope could even be addressed in 9 mos. to a year, much less two months.

Finally, I have great respect for all members of the Task Force and the contributions and insight they offer. I especiallyl have faith in Mr. Simonson and Nancy Konigsberg. It is only after very serious contemplation, frustration and sadness that I have come to this decision.

Initial documents given to us have not even seen the light of day in the manner of a critical review and recommendations. Given the lack of direction, planning, team-oriented leadership and the impossible scope of the current plan, I feel that my skills and knowledge can be better utilized in other areas.

Sincerely,

Julia M. Kennedy, Psy.D.

APPENDIX J:

LIST OF SPEAKERS

List of Speakers at POTF Meetings

Date	Name	Title	Topic
10/2/13	Shawn Willoughby	APOA Vice-President	Community Survey, Collective Bargaining Agreement
10/2/13	Stephanie Lopez	APOA President	Officer discipline & training, lapel cameras
10/2/13	Bob Lauder	former MGT of America consultant	2011 MGT report overview
10/30/13	Robin Hammer	Independent Review Officer	Independent Review Office duties and process
10/30/13	Lt. Eric Jordan	APD Internal Affairs	Internal Affairs duties and process, POC training
10/30/13	Jonathan Siegel	POC Vice Chair	Suggested amendments to POC Ordinance, key topics for POTF discussion
10/30/13	Richard Shine	POC Commissioner	Suggested amendments to POC Ordinance, key topics for POTF discussion
12/4/13	John DuBois	Assistant City Attorney	City's process/contracts for legal counsel services
12/11/13	Mj. William Barker	POC Commissioner	Role and experience as a POC member
12/18/13	David Cameron	POC Chair	Suggestions for identifying POC issues and possible solutions

T

APPENDIX K:

SPEAKERS, SUMMARY, AND ANALYSIS OF PUBLIC COMMENTS

POLICE OVERSIGHT TASK FORCE (POTF)
TOWN HALLS
PUBLIC COMMENTS – SUMMARY

The following document is a running summary and analysis of the three Town Halls conducted by the City of Albuquerque's POTF as required in City Council Resolution, Bill No. F/S R-13-143. This document has two sections. In the first section, comments of the speakers at the Town Halls are analyzed to identify recurring themes. These themes are presented in the Matrix "Recurring Themes of Public Comment by Mention and Town Hall Number." In the second section of this document, comments organized speaker and by Town Hall number are presented under the heading "Comments by Speaker by Town Halls." In addition, questions asked by and responses of POTF members to speakers are noted in the same section. The purpose of this document is to keep a running analysis and list of public comment across town halls in order to better summarize and understand citizen input. Eight recurring themes have been identified as cross-cutting the remarks of the speakers from the POTF Town Halls:

1) Police violence and corruption
2) Fear of retaliation and confidentiality
3) Public trust in the Albuquerque Police Department (APD) and enforcement of standards
4) Police Oversight Commission (POC) independence and objectivity
5) POC professionalism, preparation and training
6) Public participation and transparency at POC meetings; consistency in task force meetings, early notification and reasonable meeting times
7) Purpose of POTF and roles of its members
8) APD Training and Response Capability

RECURRING THEMES OF PUBLIC COMMENT BY MENTION AND TOWN HALL NUMBER

THEME Comments	**No. of Mentions**	**TOWN HALL NUMBER**			
		TH 1	**TH 2**	**TH 3**	**TH 4**
1. Police Violence and Corruption ➢ Police brutality; has been an issue for past 50 years. ➢ There is corruption and brutality within the APD. ➢ Use of lapel cameras needs to be enforced, no excuses tolerated; use of dashboard cameras. ➢ Speaker has been a police officer for 11 years, proud to serve; does not believe that there is corruption in APD; punishments are given when there is an infraction. ➢ Police officers generally want support; overwhelming pressure on officers to perform. ➢ Albuquerque Police Officers Associated (APOA) conducted a survey of 453 member officers in 2012; semi-anonymous; retaliation, corruption, and brutality were not found to be issues. ➢ People know there is corruption in the police force. ➢ There is corruption within APD. ➢ There is police brutality. ➢ System concern is corruption. ➢ Students are victims of police brutality.	11	X	X	X	

THEME Comments	No. of Mentions	TOWN HALL NUMBER			
		TH 1	TH 2	TH 3	TH 4
2. Fear of Retaliation and Confidentiality ➢ People are afraid of the police department because of brutality and misconduct. ➢ Police retaliate against those that speak out; more people would come forward, but they are concerned for their safety; reason for so few people coming to these meetings. ➢ There is a "Blue Wall of Silence" within the APD; internal members are aware of issues but are afraid to speak out. ➢ 1973, police beat reporters afraid to cover story for fear of retaliation ➢ There is a lot of fear within public when reporting misconduct. Recommends reporting police misconduct to a non-biased third party. Has reported misconduct to APD directly, but nothing materialized. Third party should have authority to fire police officers.	5	X	X	X	
3. Public Trust in the APD ➢ Speaker had an experience with ABQ Police Department when neighbor had a car driven into his home; police arrived and neighbor was upset and yelling, in response the police officer withdrew his weapon, which was unnecessary; felt fearful. ➢ Women's bodies found on Westside, no closure; women feel unsafe. ➢ Albuquerque spends the second highest rate (percentage-wise) for APD; 5% more funding than other police departments that are the same size as APD. ➢ APD needs to be accountable to the community. ➢ Police morale needs to be improved. ➢ IPRA requests are being denied because they are incriminating. ➢ City is terrified of APD, rights are being violated. ➢ When kids were growing up, parent was concerned about the "gangs of blue" more than the street gangs; officers beat up on teenage boys. ➢ Speaker has had problems in her neighborhood for 20 years and police have turned a blind eye. ➢ Speaker has been attending POC meetings for two years and believes the problem is lack of training for APD. ➢ Community needs officers to be held accountable for use of lapel cameras. ➢ Lapel Cameras should be mandatory. Cases should be dropped if camera is not used. Public does not trust APD and use of lapel cameras would build public trust. ➢ Need to restore public confidence.	13	X	X	X	

THEME Comments	No. of Mentions	TOWN HALL NUMBER			
		TH 1	TH 2	TH 3	TH 4
4. POC Independence and Objectivity ➢ Police oversight process cannot be controlled by the Mayor's Office or the City Council, needs to be independent; power has been abused. ➢ POC to be given subpoena power in order to subpoena people to speak/testify. ➢ POC should be aware and rectify conflicts of interest in relation to commission members. ➢ Members are to understand they are here for the benefit of the community and for the APD. ➢ POC members should be elected by the public, not appointed. ➢ Robyn Hammer should be removed immediately for utilizing an unofficial report to find a conclusion. ➢ POC should have the power to administer discipline and fire Officers.	7	X	X	X	
5. POC Professionalism, Preparation, and Training ➢ Speaker watched video of previous POC meeting and there is disturbing footage of Ms. Kennedy and other members that portrayed a poor disposition; they had disgruntled looks on their faces. ➢ Members need to know what their job as members entails. ➢ POC is ideally supposed to give thumbs up or down to findings, they do not possess the training or background to make any other determination; judgments have been made on feelings; no fundamental knowledge of Use of Force law. ➢ Would like to see mandatory training for POC members, at the least attend the Citizens Police Academy; need to make educated decisions; need to be competent and dedicated to learn. ➢ POC cannot be a disciplinary body for police officers; need to trust investigators, Internal Affairs. ➢ POC needs to have people on both sides of the issues that don't have something to gain; members should have no contact/affiliation with any civil movement. ➢ POC is disorganized and members are unqualified; they do not have a concrete understanding of constitutional law or knowledge of federal and state use of force laws. ➢ POC is the least qualified of all commissions in Albuquerque; other commissions have commissioners who are in the same or related field; commissioners need to have a background in criminal justice. ➢ Need to appoint well qualified and well trained people to the POC ➢ POC commissioners should ask for sources when people tell them things. ➢ Recommend dismissal of Mrs. Hammer. She's failing in her job title. She's exonerated hundreds of officers. She lacks personal ethics. She has conducted no community outreach, said she doesn't have the time to go make presentations.	11	X	X	X	

THEME Comments	No. of Mentions	TOWN HALL NUMBER			
		TH 1	TH 2	TH 3	TH 4
6. Public Participation and Transparency at POC Meetings ➢ Speaker believes the POC intentionally made meetings inaccessible by scheduling the meetings at various locations, at unreasonable times, and with very short notification of meetings; request made to have consistency with the POC task force meetings and earlier advance notification. ➢ The POC would suppress the public at meetings; people need to be able to ask questions at these meetings. ➢ Each meeting needs to be recorded, as stated in law; not all past meetings have been recorded. ➢ There are problems with the POC, very disorganized, do not follow the Robert's Rule of Order. ➢ POC made the decision in August, 2011, that members of the public could no longer speak at the meetings.	5	X			
7. Purpose of Task Force and Roles of Its Members ➢ This task force is here to help improve the POC. ➢ Glad there is a well-balanced mix of people on this task force. ➢ Task force member advised the audience that the POTF has been provided with a lot of material in order to prepare for their role on the task force. ➢ Task force member asked the public to provide feedback in terms of places to publish future meeting notices. ➢ Speaker would like to see working class Latinos on POTF.	5	X	X		
8. APD Training and Response Capability ➢ Mental health/illness issues and PTSD need to be addressed; there is a lack of police officer training for these types of conditions. ➢ Non-violent confrontation training is minimal, need more. ➢ Officers need to be trained on how to deal with mental illness. ➢ HB93 (2010) required mandatory CIT training for all police officers, not being implemented. ➢ Lack of training is the cause for most of the problems. ➢ Homeless people are often overlooked. Quality of life crimes affect their lives (sleeping on the street, loitering, etc). Homeless population needs specific SOPs. ➢ Training: the claim that APD officers get less than forty hours training is not true. At cadet level there is 50 hour block for crisis management, ID of mental impairment/illness/crisis. PSA level: mental health, de-escalation training. CIT (crisis intervention training) 40 hours. Crisis negotiation team CNT 40 hours. Additional training is provided on voluntary basis and as needed.	7		X	X	

COMMENTS BY SPEAKER BY TOWN HALL

Town Hall Meeting #1
Tuesday, September 03, 2013

Richard Moore – representing organization The Gardens Institute (English translation):

- Police brutality; working on issue close to 50 years ago
- Police retaliation against those that speak out
- On 1/29/72, two members were assassinated by ABQ Police, State Police, Sheriff's Dept.; assassinated by the Metro Squad
- Has testified before City Council, Dept. of Justice, Federal Gov't; others who can speak out, done because they are concerned for their safety
- Would like to see oversight committee that has subpoena power to subpoena people to come and speak
- Police oversight process cannot be controlled by the Mayor's Office, the City Council, or ???; power has been abused; process needs to be independent of the City of ABQ

Kenneth Ellis:

- Son Iraq war veteran shot by ABQ police in 2010
- People are afraid of the police department because of brutality and misconduct
- This council is tasked to come up with some ideas to bring up to City Council
- Watched video of previous meeting, disturbing footage of Ms. Kennedy and others (POTF members), their demeanor and disposition; disgruntled looks on their faces
- This task force is to help the police department, not against the Council
- Corruption and brutality within the Police Dept.
- Asks councilors to understand they are here for the benefit of the community and for the Police Dept.

Mike Gomez:

- Father of Alan Gomez, shot and killed in May 2011
- Police Oversight Commission meetings were scattered; POTF meetings need to be consistent
- Did not hear publicity on this meeting, need to notify earlier
- People do not show up due to fear of retaliation
- This council is here to help improve the POC; they (POC) would suppress the public
- Case 66-11, Enrique Carrasco, shot multiple times in back by APD officer
- Decision was made in August 2011 that public could not speak any longer
- Meetings need to be recorded
- Need to enforce lapel cameras

Sean Willoughby:

- Is the VP, ABQ Police Officers Association
- Has been a police officer for 11 years, proud to serve; does not feel APD has a problem with corruption
- There is a large amount of scrutiny on the Police Department now
- Glad there is a well-balanced mix of people on the POTF

- There are problems with the POC, very disorganized, do not follow the Robert's Rule of Order
- Members need to know what their job as members entails
- POC is ideally supposed to give thumbs up or down to findings, they do not possess the training or background to make any other determination; judgments have been made on feelings; no fundamental knowledge of use of force law
- Would like to see mandatory training for POC members, go to Citizens Police Academy; need to make educated decisions
- POC cannot be a disciplinary body for police officers; need to trust investigators, Internal Affairs
- POC is a great idea, needs to be well-balanced, need constitutional law training; need to be competent and dedicated to learn

Member Question (Arellanes): Well balanced? Described as bipartisan commission. Mr. Willoughby: ACLU members would not be trusted the same as if a police officer would not be appropriate either; need people on both sides that don't have something to gain, that are not rooting for any one team, have no contact with any civil movement; be competent and trained.

Member Question (Kennedy): Aware of any survey sent to officers (that are APOA members) of improvements they think they need to see? Mr. Willoughby: Yes, APOA polled about 453 members in Nov., 2012. Police officers generally want support. There are approximately 900 officers and punishments are given when needed.

Could officers answer anonymously? Mr. Willoughby: Yes, could answer anonymously.

Mr. Willoughby offered to provide the POTF with a copy of the survey results. Chairman Lipman requested said copies.

<u>Robin Percella – owner of NM Advocates For Change:</u>

- Father was a policeman in New Jersey; always had an open feeling to law enforcement
- Had an experience with ABQ Police Department when neighbor had a car driven into his home; police arrived and neighbor was upset and yelling, police pulled a gun; unnecessary
- City Council meeting when budget was discussed, ABQ spends the second highest rate percentage-wise for police department; 5% more than the average midsize point
- Another issue, mental illness, PTSD, lack of training for these types of conditions, needs to be addressed
- Women's bodies found on Westside, no closure; women feel unsafe
- Important for police to reestablish trust, feelings of public safety; used to feel safe walking down the street when she was five years of age (older woman)

<u>(Questions asked after public comment period)</u>

Member Question (Arellanes): Addressed to Officer Willoughby – Did the APOA survey address the question of the POC? Mr. Willoughby: No, there were no specific questions pertaining to the POC in poll.

Member Question (Wagman): The members here have been given a lot of material to read in preparation for being on task force; one line significant, quote from "Civilian oversight can never substitute for good police leadership or replace internal methods for fostering . . ."

Member Question to Audience (Lipman):

He understood comment earlier stating that there wasn't enough notice of this meeting and it wasn't widely advertised, would like to get feedback from the public in terms of places to publish notices that would be most beneficial.

Chairman Lipman stated that notice was sent out to neighborhood associations, etc.

Town Hall Meeting #2
Tuesday, September 17, 2013

Mr. Arasim:

- Mr. Willoughby, who spoke at the first Police Oversight Task Force, spoke with feelings clouded. People know there is corruption in the police force.
- Speaker has been attending POC meeting and believes the problem is lack of training. Recommends a new set of operating procedures for civilian oversight.
- Asks that the POTF make immediate recommendation to remove Robin Hammer. Ms. Hammer admitted using an unofficial report to base her conclusion on.

Mr. Ellis:

- There is corruption within the ABQ PD, DOJ is here. Started petition to have APD investigated and that is why DOJ is here. Speaker gathered thousands of signatures on a petition to have the APD investigated, including signatures of police officers.
- Community needs PD to be held accountable and use their lapel cameras.
- Mediation and preliminary hearings for shootings should be mandatory.
- POTF needs to take their role seriously. This is an opportunity to set up a police oversight process that can be a model for the rest of the country.
- Need to remove the Blue Wall of Silence.
- Lapel cameras need to be strictly enforced. When not used, it is an admission of guilt.
- IPRA requests are being denied because information is incriminating.
- NM has more decorated veterans per capita.
- Citizens do not trust APD. The city is terrified of the police department, rights are violated.
- There is police brutality.

Member Question (Arellanes): Clarifying that Mr. Ellis is saying that if no there is not a video recording then the POC should find in favor of the victim and against APD? Mr. Ellis: If there is lapel video, then it should be produced. If the officer has something to hide, they won't produce it. This is an accountability issue.

Member Question (Lipman): How were you retaliated against? Mr. Ellis: Without proof it is here say, but there were four instances.

Member Question (Koenigsberg): In your petition, what were you asking for and how is it different from the DOJ? Mr. Ellis: his petition was created for DOJ. A lot of the rhetoric and misconduct has dropped off since DOJ arrived.

Mr. Lovato:

- Concerned citizen, does not represent any group
- Concerned about the settlement on actions of APD and the recent activities of a jury for an APD officer
- Did contact DOJ regarding two instances; however, instances were not within timeframe they are investigating.
- Speaker asked members of POTF if any of them have been arrested by APD. Unanimous no.

- Second question, have any of the members been involved with APD as a witness? Mr. Arellanes stated yes, for a family member.
- Speaker shared that he hired an attorney for both of the instances he referred to early and won one case and lost the other.
- Speaker asked where a can citizen go to review APD's policies? Would like to come before task force prepared. Who in city could citizen contact to get legal interpretation of policy/policies? How do we educate ABQ citizen of their rights when they interact with a police officer?

Mr. Mickelson:

- Came to listen, but decided to speak. Military background, 33 years.
- People should find out what the rules are and they should be made transparent for everyone (prosecutors, officers, etc.).
- There are professional people investigating APD right now. Encourages adherence to rule of law.
- Need to appoint well qualified and well trained POC members.

Mr. Brown:

- PT instructor and grad student of UNM
- Average training for non-violent confrontation training is less than four hours nationally, even less than that in ABQ. Training should reflect goals.
- Need to look at who is conducting the training. Who is being hired? What kind of oversight is available?
- Need to look at root causes.
- Police officers need to be trained on how to deal with mental illnesses.

Member Question (Arellanes): During research, have you come across the Giglio Clause. Mr. Brown: Yes, aware of clause. Retroactive solutions are not solutions.

Ms. Diaz-Douville

- There is an inordinate number of police cars in her area and the helicopters are a real problem too.
- Gangs of blue were her concern when her kids growing up, not street gangs. Officers beat up on teenage boys.
- There is a new move to hire veterans. Against this idea, they have been shooting people and using lethal force for a long time – shooting brown people for a long time. They work to bring us down.
- Would like police officers to wear badges and practice civility
- She has had some good experiences with police too.

Mr. Lucero:

- Systemic concern is corruption.
- Speaker was a reporter at Tribune in 1972 when two activists were killed by police in the canyon. Before an investigation could be conducted, the site had been buried in gravel.
- In 1975, the police killed a Chicano with flashlight.
- In 1973, two plain-clothed police beat a man's son while he was watching drag races. Father brought son to police station. Regular police beat reporter was afraid to cover the story for fear of retaliation.

Member Question (Arellanes): How do you feel about requiring cameras? Believe if case comes forward without camera video, the case should be dropped? Mr. Lucero: Yes.

Ms. Tuh:

- Speaker has had a neighborhood situation for 20 years. Police have turned a blind eye.
- She was shot and police did not conduct an investigation.
- Several weeks later stepped out on front porch; same assailant approached her and knocked her unconscious. Went to the ER with injuries to her face.
- Someone, APD or neighbors, moved furniture over blood on porch, tampered with evidence.
- Criteria need to be established of what comprises an investigation.

Member Question (Lipman): How long ago did these incidents happen? Ms. Tuh: One year ago this past January. She did file a complaint with POC on both instances and nothing came of it. Mr. Deaton told her that her complaints were not going to be considered. They were considered, but she was never notified.

Ms. Graham:

- Moved here from southern CA 15 years ago.
- Never had a negative issue with APD. Officers have always been how she was taught they should be. There are good officers on police force.
- Has heard horror stories, goes back to training on mental illness. Police escalate the situation and cause further injury.
- Police don't know what to do with someone who doesn't/can't follow orders. Officers need more training on people not able to respond as requested.

Mr. Lovato (2nd):

- How does a citizen make a citizen's arrest on a police officer? (Speaker advised that was not an option.) Speaker believes this should be recommended by the POTF.

Member Question (Wagman): What oversight rules need to be changed? Mr. Ellis: What we need is police accountability, Lapel camera will be saving grace in protecting officers as well as citizens. If used, complaints and lawsuits would drop off.

Mr. Arasim (2nd):

- Has looked at POC for about two years and training issues are causing most of the problems.
- New set Standard Operating Procedures should be opened up for civilian oversight.
- The technology in lapel cameras is not there. Cameras are not the answer as they do not work half of the time.

Mr. Chacon:

- Bill passed in 2011 requiring all law enforcement to have certain amount of training in crisis situation.
- Officers need the skills to empathize with the mentally ill.
- APD has been recognized as having one of the best reputations in crisis intervention in the US.
- Some officers should have Crisis Intervention training, but not all officers. Other officers, such as explosive demolition, need to be specialized in other areas. Can encourage people to take the CIT training.
- Public needs to provide input and oversight on training.

Mr. Ellis (2nd):

- First thing family did after his son was fatally shot was introduce HB93 (2010), which requires mandatory CIT training for all officers. Law is in place now.

Ms. Diaz-Deville (2nd):

- Would like to see working class Latinos on POTF.
- Where do you go when a police officer goes rogue? Call 911? Response: Call 911 and ask to be connected to Sheriff's Office or State Police.

Town Hall Meeting #3
Tuesday, October 17, 2013

Ms. Navarro:

- Homeless advocate and works in homeless services. Homeless people are often overlooked. Quality of life crimes affect their lives (sleeping on the street, loitering, etc).
- Provided handout to POTF Board.
- Homeless populations need specific SOP's.
- Police did recently deal with mentally disturbed man well.
- Hope new chief sets new tone
- It should be standard for substation chiefs to have their officers to go easier on the homeless. There are not enough shelter beds; they have no choice but to be out there. Police officers need to respect property like IDs and backpacks.
- One option is reconciliation with officer after feelings of mistreatment.

Member Question (Simonson): Are homeless individuals aware of which officers treat them unfairly? How could complaint process encompass that issue? Ms. Navarro: Use of Lapel cameras would be helpful and recommends some type of reconciliation process if individual feels as though they were treated poorly.

Member Question (Bertoletti): Can she provide specific examples? Ms. Navarro indicated she would email council members specific incidences.

Member Question (Koenigsberg): Can she provide an area of town to focus on? Ms. Navarro advised that it was difficult to narrow a specific area of town to focus on.

Mr. Lovato:

- How can citizen tell if an Officer is under investigation for misconduct? Recommends some type of identification (bracelet).
- Suggests that person issuing a complaint be present at time of Officer Hearing.
- Officer IDs should be sent to citizen after encounter with an officer/officers so citizens know who they dealt with.

Dr. Duranco:

- Licensed psychologist, Behavior Sciences Department at APD.
- Would like to correct inaccuracies.
- Training: the claim that APD officers get less than four hours training is not true. At cadet level there is 50 hour block for crisis management, ID of mental impairment/illness/crisis. PSA level: mental health, de-escalation training. CIT (crisis intervention training) 40 hours. Crisis negotiation team CNT 40 hours.
- Behavioral Sciences Department can answer questions for the task force.
- Trainings have been in place since at least since 2009, some of it over a decade. APD always has and will continue exceeding State minimum of 600 hours of training.
- There are also ongoing trainings to keep certifications. There are monthly trainings. Some are mandatory, some are voluntary. Track officers to see who never comes.
- Not sure if this is all enough training but they are actively seeking an answer to that. Department director is at a conference to see what is working elsewhere.

- POC commissioners should ask for sources when people tell them things.
- Early alert system: even if officer hasn't done anything wrong it might trigger early alert (like deploying dog). Officer will get refresher in whatever area is needed.

Member Question (Mr. Arellanes): How long has the curriculum existed? Dr. Duranco: the current training process has been in place for over ten years. Department has implement mental health training since the 1970s.

Member Question (Mr. Arellanes): Does APD receive mental health awareness training comparable to other police departments? Dr. Duranco: Yes. APD exceeds minimum standard set by the state. Training is continuous.

Member Question (Mr. Perea): Does she feel as though Officers are receiving enough training? Dr. Duranco responded that she was unsure.

Member Question (Ms. Armijo): Are all 50 hours spent specifically dealing/discussing mental health issues? Dr. Duranco: Not specifically, but the training does address how to respond to different individuals and voluntary monthly training is offered.

Member Question (Ms. Armijo): Do Officers receive yearly mandatory training? Dr. Duranco could not confirm with certainty.

Member Question (Mr. Simonson): Does the department manage any early warning systems? Dr. Duranco: No, but they do have an alert system that triggers alarms to certain dispatch centers.

Member Question (Mr. Simonson): Ideas on how to link complaint process to the alarm system? Dr. Duranco indicated she was unsure on how to implement that type of system.

Member Question (Mr. Bertoletti): How large is special team on APD that receives more than 50+ hours of additional training? Dr. Duranco was unsure.

Member Question (Mr. Loy): How does APD fare nationally for mental health training? Dr. Duranco indicated that Albuquerque was at the forefront.

Member Question (Mr. Arellanes): Has personal experience with Officers that commit suicide, what does the department do to ensure mental health and wellbeing amongst the officers? Can this be mandatory? Dr. Duranco indicated that the Department is unable to give mandatory mental health and/or wellbeing for Officers.

<u>Mr. Arism:</u>

- Task force should not wait to make recommendations.
- Recommend now to let go of Mrs. Hammer. She's failing in her job title. She's exonerated hundreds of officers. She lacks personal ethics. She has conducted no community outreach, said she doesn't have the time to go make presentations.
- APD SOP about witness retention violates federal law.

- There is philandering within department.

Speaker 5:

- Lapel Cameras should be mandatory. Cases should be dropped if camera is not used. Public does not trust APD and use of lapel cameras would build public trust.
- There is a lot of fear within public when reporting misconduct. Recommends reporting police misconduct to a non-biased third party. Has reported misconduct to APD directly, but nothing materialized. Third party should have authority to fire police officers.

Member Question (Mr. Arellanes): DA will not pursue Officer's cases if the Officer is under investigation, does this in any way help the situation? Speaker 5: No. If the Officer is engaged in misconduct they should be terminated. Recommends some type of follow up after complaints are filed.

Member Question (Mr. Perea): Does he have recommendations about any entity to file complaints with? Speaker 5 suggested an elected governing body. Voters should have the option to remove council members as they deem unfit.

Speaker 6:

- Teacher. Students are victims of police brutality.
- POC should have the power to administer discipline and fire Officers.
- Need to restore public confidence.

APPENDIX L:

SUBCOMMITTEE AREAS OF INTEREST

suggested subcommittees→ *Task Force member↓*	**Police Oversight Commission (POC)**	**Independent Review Office (IRO)**	**APD/ Internal Affairs (IA)**	**Management and Drafting**	**Other**
Andrew Lipman	- POC's role in identifying systemic problems and making policy recommendations: o Should this be the central function of the POC rather than the task of a subcommittee? o Should the Long Term Planning Committee have the task of gathering and analyzing data with the help of IRO staff? - What should POC's role be with regard to complaint review? o Should they only review appeals? o What kind of reporting should they receive on complaints? o How can its role in the citizen complaint process be streamlined? - Selection and recruitment process -- How should	- Division of labor between IRO and IA -- Should all citizen complaints be handled by the IRO and all internal APD complaints handled by IA? Should the IRO be mandated a higher number of staff positions to insure this? - Length of contract: should it be longer? Who hires the IRO and to whom should the IRO report? - Should IRO have staff dedicated to data gathering and analysis to facilitate the POC's systemic and policy review? o Are there any other kinds of positions that should staff the IRO beyond investigators? What kind of administrative support should it have? Trends nationally are for	- Division of labor between IRO and IA -- Should all citizen complaints are handled by the IRO and all internal APD complaints handled by IA? - How and under what conditions can/should the IRO's conclusions about officer discipline be mandatory for the Police Chief? In its discussion on this topic, the 2011 MGT report says that some civilian review boards in other parts of the country have such a model. Obviously this would have to be explored within the framework of the CBA. What if this could only happen for select kinds of infractions to address systemic problems, like failure to use a video/belt recording device? What if the discipline was enforced through the Chief Administrative Officer? - Are there ways to improve the model for mediation so that it's used more regularly for certain kinds of complaints? Who and how should the mediator be selected so that it is seen by all as an independent party?		**Concerning the entire Civilian Oversight Process:** 1) How should the process be funded to insure sufficient funding and an independent process? Suggestions might include tying the budget to a percentage of the APD budget or an "off the top" percentage of taxes collected. 2) What measures can and should be taken to insure a public perception that the new process represents the public and will help improves relations between the public and APD? 3) How can marketing and PR be improved to promote a positive image for the revised process? Who should be responsible for ensuring good marketing? 4) Should the POC be renamed in new legislation to give the new law a new face: examples could include things like

	commissioners be selected, by what criteria? How many commissioners should sit on the POC? How can we ensure that the make up of the commission is properly balanced and represents the interested parties, including the public, the administration and APD perspectives? Should commissioners be paid for their service? - Training o What training should POC commissioners receive: civil rights, 4th amendment issues (detentions, arrests, use of force), Police Ride Alongs, Police Civilian Academy etc? How should compliance be enforced? - What kind of subpoena power should the IRO/POC have? National trends are demanding complete open access to police records by IRO investigators. - How can POC be restructured to enable it to do formal reviews of new	the IRO to have an analyst position as part of the staff. - How should the IRO structure its reports to best facilitate systemic and longitudinal analyses? - What kind of data is the IRO currently collecting and how could it expand data collection to test for racially disparate policing, proper use of Terry stops, compliance with video and belt recorder requirements, etc.? - How should the citizen complaint process integrate with the Early Warning System? - Should IRO and the POC recommended discipline when it upholds citizen complaints? Can those recommendations be enforced within the context of the CBA. - Are there ways to improve the model for mediation so that it's used more regularly for certain kinds of complaints? Who and how should the mediator	- Should the chief be required to give formal explanation of why s/he does not concur with the IRO's findings?		Albuquerque Police Commission or Citizen Complaint Commission.

	police programs like the "Smart Policing" initiative, the use of license plate scanners, training requirements, drones, etc. and their impact on citizens' privacy and safety?	be selected so that it is seen by all as an independent party?			
Peter Simonson	- POC's role in identifying systemic problems and making policy recommendations: o Should this be the central function of the POC rather than the task of a subcommittee? o Should the Long Term Planning Committee have the task of gathering and analyzing data with the help of IRO staff? - What should POC's role be with regarding to complaint review? o Should they only review appeals? o What kind of reporting should they receive on complaints? o How can its role in the citizen complaint process be streamlined to allow it to devote more	- Division of labor between IRO and IA - Length of contract: should it be longer? - Should IRO have staff dedicated to data gathering and analysis to facilitate the POC's systemic and policy review? o Are there any other kinds of positions that should staff the IRO beyond investigators? What kind of administrative support should it have? - How should the IRO structure its reports to best facilitate systemic and longitudinal analyses? - What kind of data is the IRO currently collecting	- Division of labor between IRO and IA - How and under what conditions can/should the IRO's conclusions about officer discipline be mandatory for the Police Chief? In its discussion on this topic, the 2011 MGT report says that some civilian review boards in other parts of the country have such a model. Obviously this would have to be explored within the framework of the CBA. What if this could only happen for select kinds of infractions to address systemic problems, like failure to use a video/belt recording device? What if the discipline was enforced through the Chief Administrative Officer? - Are there ways to improve the model for mediation so that it's used more regularly for certain kinds of complaints? - Should chief be required to give formal explanation of why s/he does not concur with the IRO's		

	time to other duties? - Selection and recruitment process - Training o What civil rights training should POC commissioners receive beyond 4th amendment issues (detentions, arrests, use of force, etc.)? - What kind of subpoena power should the IRO/POC have? - How can POC be restructured to enable it to do formal reviews of new police programs like the "Smart Policing" initiative, the use of license plate scanners, training requirements, drones, etc. and their impact on citizens' privacy and safety?	and how could it expand data collection to test for racially disparate policing, proper use of Terry stops, compliance with video and belt recorder requirements, etc.? - How can the IRO expand the citizen complaint process so that it ensures the APD's compliance with the Inspection of Public Records Act, laws against employment discrimination, and 1st amendment prohibitions on religious establishment, among other non-policing issues? - How should the citizen complaint process integrate with the Early Warning System? - Should IRO offer recommended discipline when it upholds citizen complaints?	findings?		
Nancy Koenigsburg	I believe t it would benefit our work to hear from the whole Police Oversight Commission to get their perspective on their work, what is effective, what is not working, and what kinds of things they think would make a better citizen	LONG TERM PLANNING: There MUST be good data There MUST be tracking and trending Thus, need to appropriately staff the IRO office with an analyst with the skill and ability	POLICE BEHAVIOR AND TRAINING NEEDS: Use of cameras a must. An officer should not be allowed to go into the field without an operating camera, anymore than s/he would without an operating fire arm or radio. Need training on community policing		The POC process as currently implemented appears to be designed to thwart each and every element of its mission statement. 1. The oversight process is

	complaint process and long term planning process. After all, they are doing the work. I recall our original intent was to have the chair and co-chair speak to us. I request that all the Commissioners be invited to our October 30th meeting to be available to offer their perspectives. If that is not enough lead time, then November 4th. MEDIATION: Develop criteria for cases appropriate for mediation and encourage mediation in those instances, after establishing the complaint was timely filed Use outside mediators – a police officer as a mediator is NOT neutral Add "successfully mediated" to list of outcomes POC Should be independent of the executive and city council. The (now) IRO should report to the oversight commission. Given the amount of work commissioners do, they should be compensated. Should be representative of community – diverse and broad spectrum– now seems to be almost entirely professionals (just like POTF which is NOT representative of community; also must include an	to perform this work and to work with the POC and IRO to identify issues that should be tracked and trended. Need to track/trend "obstructing police officer" charges: which officer, what shift, for type of interactions. How may police shootings have occurred when picking up a person for evaluation at a psychiatric hospital? I am aware of only two since 1995. Check to see how many have been done to learn trend. What works here that may be used in other situations? Check tracking/trending for behavior of female officers vs. male officers. My guess is that there are far fewer excessive use of force instances with female officers than male officers. Data would illuminate this. If true, what do female officers do that males don't? Tracking and trending should be linked to early warning system Must be able to review "Reactive Force Model" for citizen interactions and learn about Other models for citizen interactions Must be able to do an annual review of the APD disciplinary system, looking at individual	Attitude adjustment about how treat persons who are homeless: Should not keep person's ID If arrested, person's possessions should not be confiscated or trashed by APD -relatedly, MDC must return ID and possessions when person is released Should not stop person for whom there is no probable cause that person has acted illegally List of excessive citations as per Karen Navarro Pre-screening at police academy re; temperament All officers should be taught Mental Health First Aid. Support and expand APD's COAST services Need to assure there are CIT officers available 24/7 and that there are enough officers CIT trained to be available city wide when necessary. Failures to record required interactions are per se violations. OUTREACH: Whether at community centers, housing developments or other centers that serve the public, there should be trainings conducted by the police in conjunction with someone trained in civil rights, to teach what to do when approached by a police officer.		not independent 2. There does not appear to anything in the process that strengthens the relationship between the community and APD 3. The City Attorney, through John DuBois. undercut the Long Term Planning Subcommittee, prohibiting discussion of its current work and recommendations. 4. Little is known about its review of officer involved shootings 5. The City Attorney, through John DuBois, undercut the work of the Outreach committee, prohibiting discussion of its current work and recommendations. In other words, in this writer's opinion the POC holds its meetings but is prohibited from fulfilling its mission. IRO/POC/CITY COUNCIL/ EXECUTIVE INTER-RELATIONSHIPS: The City Attorney's office should not be in the business of telling the POC what it can and can't do. That is another instance of

	attorney with 5 years of criminal defense experience and one who had been a prosecutor. Should investigate all uses of force, allegations of abuse of authority, discourtesy, offensive language Notify a citizen who makes a complaint when his/her case will be considered by the POC, 10 business days before case is heard. Agendas need to be published 72 hours ahead (open meetings act) and if police shooting is on agenda, list name of person shot and officer(s) involved. City Councilors should be required to attend at least 2 POC meetings per year to understand and evaluate process. Complainant should be able to speak for 5 minutes, or longer at the chair's discretion, at POC when case is heard POC should be able to see complaint individual filed rather than relying on IRO summary. Each Councilor should have opportunity to appoint a person with preference for own district, if no volunteer, should be allowed to go	officer fact patterns, whether discipline imposed an reasons why/why not. Propose the budget for itself and the IRO. CITIZEN COMPLAINT PROCESS : Amend the ordinance so that is an Independent Civilian Oversight Commission to make clear it should and will be an autonomous body. IRO should not work for the executive as it essentially means this officer works for the police dept. S/he should work for either the POC or the City Council. In fact, according to the current ordinance, the IRO reports to and works under the direction of the POC. Yet, the city attorney's office undercuts this: Consider extending length of time for filing a CPC, possibly to 120 days. Once a CPC filed, notice to APD to preserve any and all evidence, tapes, etc. IRO "shall perform all duties under the direction of the POC" 9-4-1-6 B and 7 D - the IRO shall report directly to the POC". This indicates the intent is the IRO reports to the POC. This is the ordinance's express intent and			the Executive telling this supposedly independent body how to function. It should have counsel independent of city government. OTHER Need to explore the interrelationship between the Inspection of Public Records Act and, the APD union contract to assure transparency. ALL CITY OFFICIALS, including IRO and Council, must comply with IPRA.

	out of district. The Mayor should not be in the business of selecting POC members. Must be provided notice and copies of updated SOPs and performance directives. When there's a vacancy on the POC, the city councilor should be able to nominate someone from out of their district if there isn't someone in the district. The Council should appoint, not the mayor. The POC should be able to create committees to do work, not just the chairperson. Not have been employed by ABQ or Bernco law enforcement, and if law enforcement elsewhere, not for at least a year prior to being on the Commission. Stagger terms so that 3 commissioners per year have terms expire, rather than up to 5, so that there is some continuity. APD Chief should not be allowed to bypass POC review process on any citizen complaint. Commission can hear testimony by witnesses in executive session, compel officer to testify, statements	makes more sense than having him/her work for the executive. IRO hired by the POC, possibly confirmed by the city council Investigations to be completed within 90 days of complaint being filed. Why does the IRO confer and discuss the recommendation with the chief before issuing its findings to the POC? This makes no sense as it gives the appearance that the IRO reports to the chief/executive, and is not independent at all. As it appears the IRO is under the executive and beholden to the chief, how often does the IRO actually find against an officer? What is data on this/ ***Way to immunize police statements to POC so that POC has full information about incident and does not have to rely on summaries of IRO which POC may see as flawed or incomplete. It along with Commission shall make recommendations on specific training for APD or changes in SOPs, changes will be up for public comment before adoption.			

	cannot be used against officer. This is necessary because relying on summaries is ineffective and does not allow for fact finding or independent assessment and decision making. Commission shall have power to subpoena witnesses, take testimony under oath and require production of records Chief has final discipline authority, but must go through Commission process first, except in emergencies. If chief decides differently than commission, must explain why (criteria to be developed). Commission gets outside counsel, not CABQ counsel. Reports of the POC and IRO need to include statistical information about complaints by people with disabilities and people whose primary language is not English. Training needs: Current training as per ordinance seems adequate. Attend annual civil rights training conducted by ACLU or civil rights attorney.	Instances in which IRO findings and POC recommendations are not the same and POC wants IRO to change them: Consider whether discipline against officer should be considered public information rather than confidential personnel action. Budget must include enough money to; Staff IRO office well enough that all citizen complaints are investigated by the IRO and NOT internally by the police dept. Staff IRO office with a person who is knowledgeable in data collection and analysis – not the IRO him/herself. IRO's office to submit quarterly and annual report to include at least number of incidents investigated, track and trend types, discipline recommended and outcomes, successful mediations, information about outreach… Also track percentage per officer "obstructing police officer" charges issued by female officers as compared with male officers			

		Tracking and trending should include whether officer has a history of citizen complaints – unduplicated individual complainants separated out from any repeat complaints from one individual. Should discuss/evaluate whether officer's name should be publicly disclosed when subject to complaint. Report sanctions for each case considered so that POC and APD can track and trend. IRO should submit recommendations to POC which makes its own disciplinary suggestions. Both IRO and POC recs. Should go to APD chief.			
Frances Armijo	The flowchart that we received made me think, is anything like a flowchart provided to new POC members? What kind of literature/training do they receive prior to beginning work on the POC? Why can't POC members be selected by an outside source. As an example, a retired judge could review applications, with no name attached to the application. Keep it at two years service, but add some kind of monetary assistance for POC members, particularly if we	Does the IRA department provide APD Training with any stats? Do these two departments interact at all? I'm not quite sure, but I don't remember the IRA officer telling the POC whether the incident was the first, second, etc. complaint filed against an officer within a 12 month period. I think this information needs to be shared with the POC.	IRA investigation - lapel camera I heard two cases where the lapel camera "malfunctioned." The investigator had no way of verifying this actually happened. It would appear to me that there should be a requirement that if a camera "malfunctions," the officer either gives the camera to his immediate supervisor or tech department so it can be replaced or repaired, and a record kept of that interaction. Why doesn't APD Training provide yearly mandatory training when they can see that there are persistent problems that		Is each city councilman/woman provided with criteria for selecting a POC member or do they just pick a friend/constituent?

	expect them to be better trained . Do we really need nine POC members?		they should address? Does disciplinary action include an officer having to go through some sort of "sensitivity" training?		
Alan Wagman	As part of the proposed ordinance, provision for retention of an attorney to represent and advise the POC who does not owe a duty of loyalty to the mayor, the council, or other city officials or bodies. POC has final say upon appeal, not the CAO. Extensive training for POC members More stringent participation requirements Remuneration for POC members (to accommodate the time commitment for training and make it possible for community members to become involved on the POC and facilitate retention of POC members). POC and/or IRO recommend discipline and require Chief to explain any failure to follow recommendation. Reconciling POC time needs for determination of complaints vs. police contract limits on time for determination. Some mechanism to allow POC to	IRO staff to be hired/supervised/terminated by POC, not by the Mayor or other municipal body. POC and/or IRO recommend discipline and require Chief to explain any failure to follow recommendation.		I would like 11 minutes added to the agenda at every meeting (starting with 11/6) to allow each task force member 1 minute (strictly enforced) to say anything he or she wishes to say about anything he or she wishes to address. Retention of an attorney to represent and advise the Task Force who does not owe a duty of loyalty to the mayor, the council, or other city officials or bodies.	Exploring agreement with the District Attorney's Office to immunize police officers' compelled statements in response to citizen complaints. I believe that if the District Attorney's Office would agree, this would take those statements out of the reach of the *Garrity* decision and allow the POC access to the actual statements of the officers. If I am misinterpreting the reach of *Garrity*, the I believe POTF should be addressing what, if any, reforms or adjustments could be made in the process to make officers' statements available to the POC.

	determine whether IRO is providing accurate summaries of compelled officer statements. POC involvement in IA matters that goes beyond “monitoring”. POC investigating all citizen complaints. Explicit requirement as part of “policy review” and “policy recommendations” that POC address APD’s use of force protocols and report to City Council.				
Hans Erickson	**POC members should be appointed by several stakeholders**, each of which would have an interest in seeing that its appointee and the POC in general is effective. The stakeholders might be the city council (3), APD (2), and the mayor (2). The city council members should be forced to compromise over the appointees so that a single council member's appointee is not a drag on the POC, and factions of the city council will work to hold every POC member to account. **The POC should review complaints where the investigator recommends substantiation in order to make a recommendation as to discipline. The POC should audit a selection of other complaints, in panels, or**	**The IRO or executive director should be an agent of the POC**. The POC should have sole authority to hire and fire the IRO/ED. This will make the investigative function of the POC more independent from city government and APD. It should be enough that the mayor and APD appoint members of the POC. This would improve the perceived lack of independence of the POC. **There should not be a separate office or department charged with the investigation of complaints**. The IRO and her staff should be employees of the POC. This should be a largely administrative change, but it will clarify the mission and role of	**The APD should be bound, at least within a certain range or type of discipline, by the POC's determination of disciplinary action.** A significant number of citizens have said that the POC is or appears to be powerless without disciplinary authority.		**The process for receiving complaints should be tailored to maximize the number of complaints that are received by the POC.** The city government, APD, and other area law enforcement agencies should coordinate to insure that all citizen complaints are immediately referred to the POC for investigation. A citizen wishing to make a complaint should be able to do so easily and quickly in person, on the phone, or by e-mail, and whether they are directing the complaint to the city (311, city council staff, etc.),

	where the complainant appeals the investigator's findings. **The POC or any member should be permitted to file a complaint**, and there should be a policy to do so where the POC or any member becomes aware of possible misconduct not otherwise being investigated. **The POC should liaise with the DA's office to monitor officers whose misconduct frustrates prosecution**. When evidence is suppressed because of illegal searches or seizures, or where prosecution is abandoned or affected by improper police activity, the POC should at least be engaged in tracking those instances and officers. **The POC should liaise with APD's IA to independently monitor alleged criminal conduct**, even if the conduct is not within the POC's investigative jurisdiction. **The POC's mission should emphasize tracking and policy-making roles.** The fact-finding mission of the POC should largely be delegated to the investigators and the IRO/executive director. **The POC should have access to full reports, including transcripts of officer interviews, unless prohibited**	what is now the IRO. The POC should be the one-stop-shop for police oversight in terms of complaint-making, complaint-investigating, or policy-making. **Third-party mediation should be an option to resolve complaints.** Complaints not containing allegations of criminal conduct or force resulting in injury should be eligible for mediation. The mediator should be a professional not associated with the POC or the APD. The process should be voluntary for the complainant and the officer. If either party is unsatisfied with the mediation, the complaint should be investigated. **Every complaint within the POC's jurisdiction should be investigated by a POC investigator, even if some other agency is also investigating the same complaint**. **The number of POC investigators should be increased and subsequently tied to the number of APD officers**. **The timeline imposed on the investigative process by the CBA should be eliminated or significantly increased.** The current timeline results in a			APD, other area law enforcement, or the POC. The signature requirement should be abolished.

	by law or at the DA's request due to active or planned criminal prosecution. The CBA imposes a level of secrecy on the POC's investigation that is not required by law and serves to protect officers' reputations at the expense of the POC's integrity and its goal of accountability. The law already immunizes officers who have given compelled statements, whether to IA or an administrative investigator. However, there is a difference between privileged or inadmissible statements and confidential statements. Only the CBA requires confidentiality. The POC's investigations should not be independent but secret	situation where the police chief imposes discipline before the POC ever receives the investigative report and makes the process of POC review and citizen appeal meaningless. The timeline is especially unreasonable given that the CBA doesn't permit the POC to impose any sanctions. If the CBA cannot be changed, the POC should simply ignore the timelines and publicize the substantiated complaints and the police chief's disciplinary action or lack thereof. **The policy of presenting the investigation and its recommendations to the APD prior to the POC should be eliminated.** That the police have a the first say on the results of the investigation is contrary to the work of an independent investigative body. APD could be given an opportunity to comment publicly on the investigation when the POC makes its public ruling. **POC investigators and staff should be at-will employees**. There are so few people in the IRO that without freedom to staff the office it could easily be prevented from operating fairly and effectively due to personnel entrenchment.			

APPENDIX M:

ADDITIONAL SUBCOMMITTEE REQUESTED DOCUMENTS

POTF Police Oversight Commission Subcommittee Response

Introduction

The following is in response to some questions asked by the POTF Police Oversight Commission Subcommittee. The research on which the response is based is incomplete and can be deepened, if desired. It is not meant to be exhaustive, but to provide some context for the questions and a framework for the potential range of answers. The response consists of three parts:

1.) This *Introduction* which offers tentative *Answers to the Questions* based on the research
2.) The characteristics of *4 Police Oversight Models*
3.) The classification of *Some Illustrative Examples of Oversight Models* in a matrix

Answers to Questions

1.) Are there any truly independent IRO's (or similar official/body) operating in other cities? How do they operate? Are they trusted by the community?

- *Independence* in the context of police oversight complaint adjudication bodies tends to mean *independent* from the police agency itself rather than from other governments (such as a municipality) or board or commission. Nearly all oversight agencies (whether commissions, investigators, or auditors) depend on another government agency. These range from, for example, the Kansas City Office of Community Complaints which is housed separately from the police, to the Seattle Office of Professional Accountability which has a civilian Director and is housed in the police department (see matrix below), however, both rely on government and take oversight from other commissions. Among the most *independent* is the ombudsman in Dayton, but it too depends on a commission that has large government oversight responsibilities.
- For their operations, see the matrix below under *Responsibilities*.
- *Trust* on a community level may be best determined by survey data. Currently, this is not readily available for most cities on the matrix below. Nevertheless, at least one survey is scheduled to come out in 2014 and we will continue to look for data on this question. Generally, police oversight reform has been initiated when communities have *distrusted* their police and police oversight. So lack of recent change may indicate trust.

2.) Are there any professional oversight bodies in other cities that are compensated for their service? How do they operate?

- Generally, police oversight boards and other bodies are not compensated except by per diem, e.g. New York, Berkeley (see matrix below). Professional or administrative staff is compensated. Depending on the level of professional responsibility, e.g. investigation, auditing, they may be well compensated.

3.) How do members of oversight bodies in other cities get selected? Who selects them?

- This varies widely from Atlanta, where an ordinance specifies the community and neighborhood groups from which members are selected, to New York where the City Council, Mayor, and Police Commission all select members to Cambridge where they are selected by the City Manager. In the majority of cases they are selected by an executive power, e.g. mayor, and confirmed by a legislative power, e.g. council; however, they may be selected by groups and appointed by a mayor as in New York.

4 Types of Police Oversight Models

1. Review and Appellate

- Deal exclusively with citizens' complaints on an individual basis
- Act after police agency completes internal investigation of citizen complaint; review completed files
- Civilian review boards that most often report to the Chief of Police
- Recommend to Chief of Police sustain/reverse/extend internal investigation
- Low or no stand alone budget and full-time staff

Usually Do Not:

- Conduct independent investigations, hearings, or subpoena witnesses or documents
- Adjudicate complaints or discipline officers
- Hold public hearings, make policy recommendations, find patterns/practices of misconduct
- Receive complaints

2. Investigative and Quality-Assurance

- Deal with perception that internal investigation of citizens' complaints inherently biased
- Investigate/discipline police/supervise internal investigations with independent, outside body

Usually:

- Review or conduct investigations, may subpoena witnesses or documents
- Have separate housing and direction from police agency
- Are civilian staffed and directed for the greater part

3. Evaluative and Performance Based

- Deal with identifying and solving systemic failures of police culture rather than complaints/cases
- Offloading investigatory authority gets police off hook; does not increase internal accountability
- Police executives not responsible for misconduct if they do not adjudicate and impose discipline

Usually:

- Use an auditor or audit model more focused on systemic change not on resolution of specific cases
- Address systemic issues and create accountability within police department
- Hold entire chain of command strictly accountable to actively manage risk of police misconduct
- Aims to change police culture in general by requiring strict accountability

4. Mixed

Some Illustrative Examples of Oversight Models

Organization and Model Classification	Selection	Responsibilities	Professional Staff	Compensation
Atlanta Citizen Review Board (ACRB) 1	11 Citizens Selected from Community and Neighborhood Groups Listed in Ordinance	Recommend Findings/Discipline No Investigation Policy	1 ED 2 Investigator	ED @$ 100k
Berkeley Police Review Commission (PRC) 2	9 Citizens appoint by Mayor Confirmed by City Council (CC)	Adjudicates misconduct claims Reviews Policy Holds Public Forums	2 Admin 1 Investigator	$3/hr to $200/mo
Cambridge, MA, Police Review & Advisory Board (PRAB) 2	5 Citizens Appointed by City Mgr 5 Year Terms	Consults on Policy Reviews Budget Reviews CC Recommends Discipline	1 Investigator	No Board Comp
Dayton, OH Ombudsman Office in Office of Joint Citizen Complaints (OJCC) 4 (1&2)	1 Ombudsman OJCC Board of Trustees Selects 2 year Contract	Oversees all Gov't offices		
DC Police Complaints Board (PCB) 2	4 Volunteers 1 PD Employee	PCB Oversees Office of Police Complaints (OPC)	20 Staff for OPC	
Eugene Police Auditor 3	1 Auditor Applications Vetted by Community Panel Makes recommendations to CC	Monitors Sworn IA Audits After Investigation Recommends Findings Policy	1 Auditor, 1 Deputy 2 AA	Auditor @ $100k
Hawaii Co. Police Commission 1	9 Commissioners 1 per district Mayor Appoints Confirmed by CC	Reviews PD Budget Hires and Fires Chief		
Kansas City, MO Board of Police Commissioners (BPC) 2	BPC oversees Office of Community Complaints (OCC)		7 OCC Staff Housed Separately	
Minneapolis Civilian Police Review Authority (CPRA) 1	11 Members 6 Appointed by CC 5 by Mayor 4 Year Terms		4 Staff	$50/day for meetings/hearings

Organization and Model Classification	Selection	Responsibilities	Professional Staff	Compensation
New Orleans Office of Independent Police Monitor (IPM) 3	1 Independent Police Monitor 1 Deputy 1 ED of Community Relations 15 Volunteers: local pro bono attorneys, student law clerks, and interns	In Office of IG IPM Monitors NOPD's Public Integrity Bureau (PIB) Collects/analyzes data on police complaints/operations PIB conducts all Investigations		
New York Civilian Complaint Review Board (CCRB) 2	13 Members 5 Selected by CC; 3 selected by Police Commissioner w/Law Enforcement Experience; 5 selected by Mayor All appointed by Mayor 3 Year terms	Set Policy Review all CCRB investigative Findings Recommends Discipline Citizen Complaints Reviewed by Panels w/ 1 each group	1 ED	Per Diem for CCRB
Salt Lake City, UT Police Civilian Review Board (PCRB) 2	14 Members 2 from Each CC District 3 Year Term Two Term Limit	Investigates PD Misconduct Investigation of Excessive Force concurrent with IA		
Seattle OPA Review Board (OPARB) [Office of Professional Accountability (OPA) in SPD] 4 (1,2 & 3)	7 Citizens on OPARB	Get Citizen Input Review of OPA Complaint Process	1 Civilian OPA Director Housed In SPD Oversees PD IA 1 OPA Auditor	
San Francisco Office of Citizen Complaints (OCC) 2	Police Commission (PC) nominates member as OCC Director	OCC reports to PC Sole Jurisdiction/Investigation of complaints Findings Policy	35 staff w/ 17 investigators	

Garrity et al v. New Jersey
385 U.S. 493 (1967)

Facts

- June 1961: *New Jersey* Supreme Court directs state Attorney General to investigate reports of "ticket fixing" in townships of Bellmawr and Barrington
- Investigation puts six employees under suspicion: three from Bellmawr, including a police officer, a court clerk, and Police Chief Edward Garrity; three from Barrington, all police officers

- Before being questioned, employees advised:
  1. Anything said might be used in a criminal proceeding;
  2. Had the privilege to refuse to answer if the answer would tend to be self-incriminatory;
  3. Refusal to answer would be cause for removal from office.

- Employees then answered questions
  - Some answers used in subsequent prosecutions over objections
  - Prosecutions resulted in convictions for conspiracy to obstruct administration of traffic laws

- Employees appealed convictions using argument:
  - Statements were coerced
  - Coerced statements violate the 5th Amendment to the U.S. Constitution
  - 5th Amendment protection extended by 14th Amendment to the U.S. Constitution

- Convictions upheld by the New Jersey State Supreme Court
- Convictions appealed to the United States Supreme Court

Issue

". . . whether a State, contrary to the requirement of the Fourteenth Amendment, can use the threat of discharge to secure incriminatory evidence against an employee"

Decision

- Decision of the New Jersey State Supreme Court reversed
- Employees' convictions overturned

Holding

- "The threat of removal from public office . . . rendered the resulting statements involuntary and therefore inadmissible in the state criminal proceedings" (493)
- "The choice given petitioners either to forfeit their jobs or to incriminate themselves constituted coercion" (494)
- "The choice imposed on petitioners was one between self-incrimination or job forfeiture" (496)

- "The option to lose their means of livelihood or to pay the penalty of self-incrimination is the antithesis of free choice to speak out or to remain silent" (497)

- "We now hold that the protection of the individual under the 14th Amendment against coerced statements prohibits use in subsequent criminal proceedings of statements obtained under threat of removal from office, and that it extends to all, whether they are policemen or other members of our body politic" (500)

Basic Application of Garrity Decision in Public Employment

- Garrity protects public employees from being *compelled to incriminate* themselves during investigatory interviews *conducted by their employers*
  - 5th Amendment to the U.S. Constitution: government cannot compel a person to be a witness against himself

- *Employer is the government* for public employees
  - When questioned by employer, employees are being questioned by the government
  - 5th Amendment applies to questioning if related to potentially criminal conduct
  - "Equal protection" clause of the 14th Amendment extends 5th Amendment to state, county, and municipal governments

- Government DOES have power to compel employee to answer questions
  - Even when testimony is potentially incriminating
  - Person testifying must be given protection similar to the Fifth Amendment privilege
  - Protection given is a grant of immunity from prosecution using the compelled statements

Some Extensions of Garrity to Police and Review Boards

Gardner v. Broderick, Police Commissioner of the City of New York, et al.

392 U.S. 273 (1968)

U.S. Supremen Court found that employer (municipal government) cannot use threat of discharge to coerce employee to waive constitutional rights and sign a waiver of immunity

City and County of Denver, a Municipal Corporation and Public Safety Review Commission, a Commission of the City and County of Denver, Plaintiffs-Appellees, v. Jerome POWELL and Scott Blatnik, Defendants-Appellants

No. 97CA1662 (1998)

Colorado Court of Appeals, Division II found that even with subpoena power because a review board is not the employer, there was no threat of discipline and thus police officers would not be immune from prosecution on their testimony under Garrity, so they could not be compelled to testify. Subpoena power is not sufficient state compulsion to invoke Garrity or Gardner

APPENDIX N:

SUBCOMMITTEE GUIDANCE DOCUMENTS

Police Oversight Task Force
Subcommittee Guidance
11/6/2013

The Resolution establishing the POTF charged it with completing a 'thorough evaluation and analysis of the police oversight process' and providing a report of its recommendations for improving the process to the City Council by December 2013.
It is important that all members of the POTF are engaged in this decision making process as assigned. Because of the difficultly of making these decisions in a large group of individuals with varied backgrounds, the subcommittee structure can be more effective for a manageable dialogue of the issues.
The following are some basic questions that may be used to facilitate this evaluation within the approved sub-committees.

1) Are the roles of the participants in the Police Oversight Process (POC, IRO, IRO Investigators, APD/Internal Affairs, etc.) adequately defined in the Ordinance?

2) Do the defined roles of the participants differ than from current practice?

3) Do the structure and relationship of the participants allow the Police Oversight Process to work as intended by the Ordinance?

4) Are the qualifications, selection process, terms, classification and compensation of the participants appropriate?

5) Are the participants sufficiently trained to carry out their function?

6) Is there appropriate independence in Police Oversight Process from City Administration and the City Council?

7) Which participant(s) should have a role in monitoring and advising APD on trends and policy changes, including Standard Operating Procedures (SOPs)?

8) Which participant should handle Citizen Police Complaint (CPC) appeals?

9) Should the Police Oversight Process allow for informal mediation of CPCs?

10) Should CPC findings be reviewed and/or approved by all participants?

11) Which participant(s) should be responsible for final reporting on CPC findings to complainants?

12) Which participant(s) should be responsible for aggregate reporting on CPCs to the Mayor and City Council?

13) Which participants should be included in the investigation of police involved shootings?

14) Which participants should have authority to recommend or enforce officer discipline as a result of CPC findings?

City of Albuquerque • Police Oversight Task Force
Process Guidelines for Determining POTF Recommendations *(DRAFT)*

Objectives

- Focus POTF deliberations on submitting a final report, with recommendations, by January 31, 2014.
- Allow the Chair, as well as all POTF members, to fully participate in deliberation and decision making.

General Guidelines

- Agendas will emphasize hearing Subcommittee recommendations and then deliberating as a Task Force. There may be utility in allowing Subcommittees to occasionally caucus within meetings.
- To help with making comparisons between recommendations, and finding common ground, Subcommittees will use a common format for presenting recommendations, e.g., the "findings" and "recommendations" format used in the MGT report.
- Also, the Task Force and Subcommittees will employ a common set of categories for all findings and recommendations, possibly framed as the "Key Questions" being answered by the proffered recommendations.
- The Task Force may, at certain times, use the services of an outside facilitator to moderate the discussion.
- The Task Force will meet three times in December and three times in January. This may be amended as the January 31, 2014 deadline approaches.

Facilitator Role

- Work with the Chair, the Management Subcommittee, and Council Services staff to assist with designing meeting agendas.
- Moderate discussions when participation in deliberations by the Chair is deemed necessary.
- Propose questions and process recommendations to assist with deliberations.

Group Decision Making

- The Task Force will strive to reach consensus on recommendations.
- Where consensus cannot be reached, a recommendation will go forward if there is a supermajority of seven members in support of it.
- The Task Force may decide to vote on individual recommendations or to vote on a package of recommendations.
- One or more minority reports may accompany the final POTF report and recommendations.

City of Albuquerque Police Oversight Task Force • Work Product: December 11, 2013 Task Force Meeting

Focus Question: *What are Key Questions or Problems the POTF's Recommendations Must Address?*

(Primary questions are in headers; contributing ideas are in bullets in the columns beneath; number of contributing ideas does not suggest a hierarchy or priority ordering.)

How independent should the oversight process be and what authority should it have?	**How do we maximize the impact of the oversight process on police practice?**	**How can the oversight process improve trust between APD and the community?**	**How can we staff a credible citizen review process?**	**How do we assure funding [of the oversight process] that is sufficient and protected?**	**How do we build in monitoring of the oversight process's effectiveness?**	**How can the POTF increase the potential of its recommendations being adopted?**
• What should the relationship between the IRO, POC, Chief and Mayor be? • Who has discipline authority? • How can the oversight process have greater independence? • A lack of trust (from the public) that investigations are adequate and fair. • Who picks the members of the POC?	• How can the oversight process impact police practice to reduce unreasonable use of deadly force? • Lack of trust that the POC will try to correct <u>patterns</u> of abusive behavior. • The oversight process must identify and address systemic issues. • How to maximize the effectiveness of the oversight body?	• How does the oversight process promote APD accountability and transparency? • APD, POC and IRO accountability to the public. • How to improve civilian-APD relations?	• Qualifications, training, attendance and selection of POC and IRO/staff—lack of trust from APD. • Lack of trust between officers and POC.	• Funding: independent and sufficient. • Does the POTF have real power and influence?	• [stand-alone question]	• What needs to change (in the overall process)? • What needs to stay the same? • What is our overall statement of intent (to reduce chance for later misinterpretation ?

APPENDIX O:

SUBCOMMITTEE REPORTS

IRO SUBCOMMITTEE MAJORITY REPORT

Finding 1
The mayor's control over the IRO—the powers to hire and fire, most importantly—is a limit on the IRO's independence. The mayor directly controls both the police department (through selection of the chief of police) and the IRO. This creates a perception that the IRO is not independent of the line of command of the police department. The IRO's dependence on the mayor for reappointment after his or her short term also creates pressure—even if not acted upon by the IRO—to consider the political impact of the IRO's work.

Recommendation 1
The IRO should be hired, fired, and supervised by the POC in the same way that a corporate board hires, fires, and supervises its executive officers. This arrangement would remove the IRO from direct influence—real or perceived—of those in or controlling the police department's line of command. This change may require changes to the composition of the POC and the eligibility requirements of its members. However, the POC members need not have the same qualifications of the IRO. Corporate boards, for example, need not comprise individuals all of whom are capable of running the organization. The POC members need only be capable of setting policies for the organization and evaluating the executive officer's ability to carry out those policies.

****

Finding 2
The current practice whereby the IRO confers with the police department prior to presenting the findings of an investigation to the POC is an inappropriate intrusion into the POC/IRO's independence.

Recommendation 2
The IRO should share its investigation and findings with the POC and the public in that order. The IRO should not be required or permitted to share its findings with the police department unless failing to do so would prevent the police department from taking disciplinary action within the timeline imposed by its internal personnel regulations. If the findings must be shared prior to review by the POC or release to the public, the IRO should merely disclose its findings rather than confer with the police department. This change will limit the appearance that the police department has a role in shaping the IRO's findings and recommendations.

****

Finding 3
The IRO lacks capacity to investigate all complaints within its jurisdiction, and some complaints must be forwarded to Internal Affairs for investigation. Investigation by non-civilian investigators is contrary to the purpose of the IRO.

Recommendation 3
The IRO's staff of investigator's should be increased by at least one investigator, and the total number of investigators should be fixed at a minimum relative to the number of officers in the police department.

****

Finding 4
Complaints resolved through mediation use police officer mediators. It is a basic principle of mediation that the mediator be an disinterested third party.

Recommendation 4
The mediators assigned to mediate complaints should be taken from a pool of professional mediators who are not connected with the police department or the IRO.

****

Finding 5
The IRO lacks capacity to provide meaningful tracking, trending, and analysis of external and internal complaints, civil suits against the city and its officers, and other areas of interest to the POC in its policy-making role.

Recommendation 5
The IRO's staff of analysts should be increased by one or two so that the POC can more completely and proactively monitor data it needs to make informed and original policy recommendations. Currently, the IRO's analyst works full time to prepare periodic reports based on civilian complaints. Analysis of civilian complaints is extremely important, but does not provide a complete picture of relationship between the police and the community. For example, many of the most serious complaints are resolved through litigation rather than the complaint process. The IRO's analysts should monitor those cases through public access to court information at least. At best, the IRO could be given some access to information about lawsuits against the city and its officers through the city's risk management operation. Additionally, the IRO's analysts should be available to respond to requests from the POC for information and analysis needed for specific policy initiatives.

****

Finding 6
The IRO has no authority to investigate matters that are not initiated by civilians, even if the IRO or members of the POC would like to investigate a matter within their own knowledge or concern.

Recommendation 6
The POC or its members should be given the authority to initiate an investigation, either on their own initiative or upon recommendation by the IRO.

****

Finding 7
Chapter 29, Article 14 of New Mexico Statutes sets forth what is allowed under state law concerning interrogation of a law enforcement officer in an administrative proceeding. The state and federal constitutions set forth requirements for notice and hearing. However, to ensure appropriate POC supervision over the IRO, it may be necessary either at random times or during specifically selected investigations for a member or members of the POC to participate directly in the interrogation of an Albuquerque Police Department Officer concerning administrative matters within the purview of the POC and IRO.

Recommendation 7
Provided that the statutory and constitutional requirements for interrogation of law enforcement officers in administrative matters are met, the IRO should be required to facilitate any request by a member or members of the Police Oversight Commission to participate in an interrogation by either arranging for participation in an already scheduled interrogation session or arranging a specially scheduled interrogation session.

****

Finding 8
The POC cannot appropriately evaluate the quality of the work of the IRO unless the POC can evaluate whether the summaries of officer testimony prepared by the IRO are unbiased and accurate. To accomplish this evaluation requires at least the ability to compare some summaries with the full testimony.

Recommendation 8
The IRO should be required to provide the POC, on a randomized basis, with a limited number of full transcriptions of testimony – with sufficient redactions to eliminate any confidential information – to allow POC comparison of full transcriptions of testimony with the IRO-prepared summaries of the testimony.

~~DRAFT~~

IRO SUBCOMMITTEE MINORITY REPORT

FRAMEWORK FOR POLICE OVERSIGHT AGENCY

OBJECTIVE

Improvements in the areas of Transparency, Independence and Allocation of Resources are essential.

The following recommendations are more specific to the IRO function but are obviously dependent on concurrent and complementary changes in the POC and APD/IA functions.

TRANSPARENCY

The IRO Office should:

- Develop a strong auditing function to monitor APD programs, functions, processes, procedures including Internal Affairs investigations. Acquire this capability through hiring professional staff, utilizing the services of the City's Independent Auditor or contract with outside agencies.
- On an annual basis, develop an audit plan for submission to and approval of the POC. The Plan may include Performance audits for accountability, efficiency and effectiveness as well as Assurance audits (forensic, evidentiary based) as determined by the IRO and approved by the POC. When completed audits shall be published and made widely available to the public.

- Continue and enhance efforts to provide information to the public, within legal parameters, about the CPC including specific complaints' information and work towards greater transparency by removing administrative, procedural and legal obstacles whenever possible.
- Expedite the intake, assignment, review, investigation and disposition of CPC's
- Continue and improve efforts in the area of informal complaint resolution and mediation. In cases suitable for mediation private mediation services should be employed rather than APD mediators.
- Continue and enhance efforts to analyze trends and identify potential systemic issues in coordination with and approval of the POC.
- Continue and enhance community outreach programs in coordination with the POC.
- The IRO office should have a formal role in all CPC investigations, officer involved shootings, in-custody deaths and monitor all APD use of force cases.

INDEPENDENCE/RESOURCES

- The civilian police oversight program should be established as a quasi-public agency. There are plenty of examples to model after. Locally a modified version of the Inspector General Ordinance or better yet the Urban Development Agency (no longer in existence) could be considered.
- A special "fund" should be established to provide adequate resources to the program and better protect it during the annual City budget process. For example a set aside equal to just one half of one percent of the current APD operating budget (FY-14 $153M) would likely provide adequate resources to staff up the IRO office, training and "per diem" or a modest stipend for POC members.

- The Agency would generally function in a checks and balances system where the IRO would be the executive and the POC would provide the policy oversight (IRO proposes POC disposes).
- POC should focus more on policy and systemic issues and less on specific complaints. POC should review all IRO investigations and findings for trend analysis and hear CPC appeals. The IRO should provide aggregate information on all cases and whenever appropriate, as much information as possible on specific cases to inform the policy discussion of the POC.

STRUCTURE AND AUTHORITY

- POC should be composed of 5 to7 members, balanced between special expertise and representation of affected population segments. The POC members should be appointed at large by Mayor/Council.
- A three member committee (MCJC) should be established, composed of the Mayor, the President of the City Council, or their designated representatives and a retired Judge selected by the Mayor and Council. The MCJC would have the authority to hire and fire the IRO and be the final arbiter on appeals of citizen complaints against police.
- Disciplinary authority for APD personnel should remain as is: within the APD command structure and the Chief Administrative Officer per the Merit System Ordinance and the City Charter.
- POC should be involved in an advisory capacity in the selection and annual performance evaluation of the IRO with the MCJC the final authority.
- The terms of the POC members should be staggered every two years, the IRO contract term should be extended to four years.

POC Subcommittee recommendations 12-4-13

Retention of Police Oversight Commission (POC)

Finding: The POC is a vital component of the civilian oversight structure because, as a representative of the community, it bolsters public trust in the Albuquerque Police Department (APD). However, we also find that the POC, as currently constituted, is not fully qualified to perform this key role.

Recommendation: The Albuquerque City Council should retain the POC as a key element of its civilian oversight model.

(passed 4-0)

Primary function of the POC

Findings: The legislative findings of the Police Oversight Ordinance state that the POC should act as a representative of the Albuquerque Community to review the policies, procedures and practices of APD. The POC should also offer a place for citizens to file complaints against the APD.

Recommendations: The POC should primarily focus on and address systemic problems in the APD, and should delve into individual Citizen Police Complaints at their discretion for the purpose of driving a policy agenda and assessing systems implications. We recommend that APD should be required to provide written response to the POC's recommendations for policy and procedural changes, including but not limited to an explanation of why the recommendations were not followed.

(passed 4-0)

Relationship of POC to Independent Review Office (IRO)

Finding: The IRO and the POC must be independent of any branch of city government. In a model in which the POC primarily addresses systemic issues, it is strongly dependent upon the resources and capabilities of the IRO.

Recommendation: The POC should oversee the IRO and supervise the Independent Review Officer. The qualifications of the POC must be improved to perform this function (see the next recommendation).

(passed 3-1, Armijo opposed)

Selection of POC members

Finding: The current POC is not fully qualified to perform the duties assigned to it.

Recommendation: Based on select criteria, the POC should consist of 9 residents of the City of Albuquerque, including 4 "expert" positions (criminal defense lawyer, prosecutor, public policy expert, and a police officer not affiliated with APD or BCSO) and 5 "at-large" positions (i.e. business owner, community activist, etc.). The City Council should appoint those positions and the selection process should be subject to the Open Meetings Act.

(passed 3-0, Perea absent)

Relationship of POC to city government

Finding: In its operations, the POC should be entirely independent of any branch of government.

Recommendation: In order to ensure adequate funding, the POC ordinance should tie the POC/IRO budget directly to that of the APD and set the budget at no less than 1% of the APD's total budget.

(passed 4-0)

Administrative changes

Recommendation: POC members should be compensated for their service.

(passed 3-0, Perea absent)

<u>Outstanding issues</u>:

1) What powers and capacities does the POC require to carry out its primary function? How does the POC rely on the IRO to exercise these powers?
    - Subpoena power
    - Access to police records
    - Data gathering and analysis
    - Disciplinary authority
2) In light of the POC's primary function, what training should commissioners receive?
3) What should be the term and participation requirements for Commissioners?
4) What criteria should govern the selection of Commissioners?

APPENDIX P:

POLICE OVERSIGHT COMMISSION DOCUMENTS

Police Oversight Commission
Rules and Regulations 2012
(amended 9/14/06, 3/8/07, 3/5/09, 11/8/12, and 12/13/12)

TABLE OF CONTENTS

ARTICLE I – MEETINGS.

ARTICLE II – ORGANIZATION.

ARTICLE III – PROCEDURES.

Article IV – Powers and Duties of the Commission.

Article V Procedures

Police Oversight Commission
For the
City of Albuquerque

Rules and Regulations Governing the Police Oversight Commission

Article I-Meetings

Section 1. Regular Meetings.

A. The regular meetings of the Police Oversight Commission (POC) for the City of Albuquerque shall be held at 4:00 p.m. on the second Thursday of every month and at times consistent with resolutions adopted by the POC. Meetings are normally held in the City Council/Commission Chambers, Albuquerque/Bernalillo County Government Center.
B. In December or as early as possible each calendar year, the Chair of the POC shall introduce a resolution in compliance with the Open Meetings Law, specifying the date and time for the regular meetings of the POC. If these meetings need to be changed, such action should be taken as soon as it becomes clear that a change is appropriate.
C. Regularly scheduled public meetings will be conducted with a prepared agenda that is distributed in advance to the Mayor, City Council, Police Chief, and City Attorney and will comply with the New Mexico Open Meetings Law.
D. Each POC meeting will begin with public comment.
E. Regularly scheduled meetings will be televised live on the appropriate government access channel, if it is operating.
F. If the POC needs to consult with their attorney on an issue during the public meetings, The POC will comply with the State Open Meetings Law, but may properly have privileged communications with their attorney. These closed consultations will be kept to a minimum.

Section 2. Special Meetings.

A. Special meetings may be called by the Chair or by three Commissioners, provided that written notice of such meetings shall be given to each commissioner at least 24 hours before the time set for the meeting.
B. These meetings must comply with the Open Meetings Law and shall be videotaped and aired on the appropriate government access channel; however there is no requirement for providing live television coverage.
C. Special meetings may also be required in accordance with §94112 Revised Ordinances of Albuquerque 1994 (ROA 1994) upon petition of 1000 or more citizens in the City of Albuquerque and filed in the Office of the City Clerk.
D. Notice of these meetings shall be given in the same manner and shall comply with the State Open Meetings Law. These meetings will be televised live on the appropriate government access channel, if operating.

E. The POC may have closed meetings for training purposes or any other purpose allowed by law. No business or other POC issues may be discussed during these closed meetings unless otherwise allowed by law.
F. Closed meetings must be announced in advance and explained in public as to the reasons for a closed meeting (only for training). After the closed meeting and at the next regularly scheduled meeting, the Chair will announce what occurred at the closed meeting, if it is appropriate to do so.
G. The New Mexico Open Meetings Act, §10151, et seq., NMSA will be complied with for closed meetings. Nothing in this rule is meant to forbid Commissioners from receiving training individually or in groups constituting less than a quorum.

Section 3. Emergency Meetings.

A. Notwithstanding any provision contained herein, the Chair of the POC, may in the event of an emergency, call with whatever notice is possible under the circumstances, a meeting of the POC to consider any matter. "Emergency" for the purpose of this section includes an unexpected occurrence or condition, or the state resulting there from, which may require immediate consideration or action by the POC.
B. These meetings will comply with the New Mexico Open Meetings Act and shall be videotaped and aired on the appropriate government access channel. There is no requirement for providing live television coverage.

Section 4. Notice of Public Meetings.

A. Notice to the public shall be given at least 24 hours in advance of any regular meeting of a quorum of the members of the POC. Such notice may be given:
   1. By posting a written notice in the lobby on the first floor of the Albuquerque/Bernalillo County Government Center, Albuquerque, New Mexico; or,
   2. By written notice published in a newspaper of general circulation in the City of Albuquerque.
B. Notice to the public shall be given at least 24 hours in advance of any special meeting of a quorum of the members of the POC. Such notice may be given in the same manner as set forth above.
C. The foregoing notice is sufficient, as long as the date, time and place of such meeting is given; but as to special matters, the POC, in its sole discretion, additionally may include in such notice a brief description as to an item or items to be considered at such meeting, by reference to the general topic or by reference to all or a portion of the agenda.
D. Except for emergency matters, the POC shall take action only on items appearing on the agenda. For the purpose of this subsection, an "emergency matter" refers to unforeseen circumstances that, if not addressed immediately by the POC, will likely result in injury or damage to persons or property or substantial financial loss to the City.

Section 5. Compliance with City Ordinances and State Statutes.

A. Substantial compliance with any one of the foregoing methods of giving notice shall constitute compliance with Ordinance No. 401974 and with Chapter 10, Article 15.NMSA, 1978, as amended.
B. Nothing herein shall prevent the use of additional means or methods of giving notice of regular or special meetings; nothing herein shall require new notice for any public meeting for which notice has been given pursuant to these rules and which is recessed

or adjourned, except an oral announcement of the date, time, and place shall be made by the Chair before such meeting is recessed or adjourned.

C. The Chair of the POC or anyone designated by the Chair is hereby authorized to give any such foregoing notice and the Chair of the POC may establish additional means or methods of making known to the public the date, time, and place of any regular meeting of the POC.

Section 6. Quorum.

A. A majority of the commissioners of the POC shall constitute a quorum thereof. The majority of commissioners shall be of those commissioners who have been appointed and approved and have not resigned.

B. For example, the current number of approved and serving commissioners is eight, but the amended ordinance provided for a total of nine commissioners. A quorum is five commissioners, since only eight commissioners are currently serving. If one commissioner resigned before additional commissioners were appointed, the quorum would be four of the seven commissioners.

Section 7. Addressing Meetings.

A. Public Comment. Members of the public may sign up for public comment before the meeting begins. Pursuant to §9415H, each POC meeting will begin with public comments. Members of the public are limited to two minutes unless modified at the discretion of the Chair.

B. Persons may be invited by the POC to address it on a particular agenda item or for the purpose of a general address. These invitees may be given a time to be established by the Chair, but normally will be 10 minutes.

C. The Mayor or the Mayor's designated representative may be invited to address the POC or may request to speak before the POC.

D. The City Councilors or their designated representative may be invited to address the POC or may request to speak before the POC

E. The City Attorney or his/her designated representative may be invited to address the POC or may request to speak before the POC.

F. The Chief of Police or his/her designated representative may be invited to address the POC or may request to speak before the POC.

G. The Independent Review Officer or his/her designated representative may be invited to address the POC or may request to speak before the POC.

Section 8. Records.

Unless otherwise provided, the staff of the IRO shall serve as the clerk for the POC. The clerk shall keep the minutes and records of all POC proceedings. The proceedings are videotaped by Media Services.

Section 9. Attendance.

Commissioners shall attend all meetings of the POC unless excused by the Chair. The appointment of any member of the POC who has been absent and not excused from three consecutive regular or special meetings shall automatically expire effective on the date the fact of such absence is reported by the POC to the City Clerk.

Section 10. Disturbing Meetings.

A. It shall be unlawful to disturb any meeting of the POC or any of its committees, or to behave in a disorderly manner at any such meeting.

B. Any person who disturbs meetings may be removed immediately at the request of any Commissioner for the remainder of that meeting.

Section 11. Open Meetings.

All meetings of the POC and its Committees shall be open to the public. The POC may close such meetings upon proper notice and recording to the public or as otherwise allowed by law.

Article II-Organization of the Police Oversight Commission

Section 1. Election of Chair and Vice Chair.

A. At the first meeting of the POC in the month of March of each year, the POC shall elect one of its members to act as Chair and another member to act as Vice Chair of the POC. The Chair and Vice Chair shall serve at the pleasure of the POC until March of the next year and until their successors are elected.
B. No officers shall be eligible to succeed themselves in the same office.
C. The POC shall be the judge of the election and qualification of its members.

Section 2. Powers and Duties of the Chair and Vice Chair.

A. The Chair shall call the commissioners to order, and upon a quorum being present, shall proceed to business.
B. The Chair shall possess the powers and perform the duties herein described, to wit the Chair:
   1. Shall preserve order and decorum and have general direction of the commission/chambers or any location where the POC holds its meetings.
   2. Shall assign agenda items and have the responsibility for preparation of the agenda and dissemination of the agenda with the public notice for the meeting.
   3. Shall decide all questions of order, subject to a Commissioners right to appeal to the POC as a whole.
   4. Shall speak to points of order in preference to other Commissioners.
   5. May speak, as other Commissioners, on general questions.
   6. Shall vote upon all questions in the same manner as other Commissioners.
   7. Shall announce the result promptly on the completion of every vote.
   8. Shall appoint all Committees whether standing, joint, or special, subject to the approval of the POC. Committees shall consist of any number of Commissioners less than a quorum. The Chair shall designate the Chair for each committee, subject to the approval of the POC.
   9. Shall sign all letters in conjunction with the business of the POC.
   10. Shall receive all formal messages and communications from the Mayor, City Council, and others.
   11. Shall hold over or refer to the appropriate Committee any issues of interest to the POC.
C. In the absence of the Chair, upon the Chair's inability to act, or upon request of the chair, the Vice Chair shall preside and shall have all the powers and authority of the Chair.

Section 3. LTPC and Other Committees.

A. The IRO/POC budget shall be considered by the Long Term Planning Committee. In addition, the POC Chair, or the Chair's designee, may meet with the Mayor and City Council to review and make recommendations on the IRO/POC budget.
B. Membership on any committee shall be limited to POC members.
C. No Committee shall hold a hearing without a quorum of the Committee present. Any Commissioner who is not a member of the Committee may be designated as an

alternate for any Committee member who cannot be present at the meeting. The alternate shall be selected by the Commissioner for whom the alternate is serving.

D. The Chair of a Committee shall vote on all matters before the Committee as other members of the Committee, The chair may make motions and second motions.
E. Every report of a Committee, upon matters referred to the Committee, shall be in writing and addressed to the Chair of the POC. Reports of a minority of a Committee may be submitted and included in the Committee report.
F. The Committees shall report on all matters referred to them without unnecessary delay. If a Committee refuses or neglects to report on any matter referred to it, the Chair may take the matter from the Committee.
G. The rules and orders of the POC shall apply to all committees, except as otherwise provided and except that committees may establish their own time limitations for witnesses addressing the committee and for debate by members of the Committee, and except that notice to the public, including an agenda, shall be given of any regular or special meeting of a quorum of the members of any Committee.

Article III- Procedures

Section 1. General Rules.

Any matter not covered by these rules shall be governed by Roberts' Rules of Order (latest edition), or by a decision of the Chair, subject to the right of appeal.

Section 2. Motions by the Chair.

The Chair may make motions or second motions at the Chair's discretion.

Section 3. Amendment of Rules.

These rules, or any part thereof, may be amended, repealed, altered or rescinded by a vote of a majority of all Commissioners and after one week's notice of an intended motion. Such notice shall be presented in writing at a regular meeting of the POC. This rule shall not be used to change the clear meaning of the Police Oversight Ordinance.

Section 4. Suspension of the Rules.

Except for charter, statutory, or ordinance provisions, these rules, or any part thereof, may be temporarily suspended by a vote of two-thirds of the Commissioners present. When the suspension of a rule is requested and no objection is offered, the Chair shall announce the rule is suspended and the POC may proceed accordingly.

Section 5. Order of Business.

A. The POC shall consider business in the following order:
   1. Welcome and Call to Order
   2. Pledge of Allegiance
   3. Public Comment
   4. Review/Approval of Minutes
   5. Citizen Appeals
   6. Findings by POC
   7. Non-concurrences
   8. Issues from LTPC
   9. Reports from City Staff, including the IRO, Mayor, City Council, City Attorney, and Albuquerque Police Department.
   10. Reports from Committees
   11. Other Business
   12. Civil Rights Training (when scheduled)

B. The POC may, upon the affirmative vote of a majority of the Commissioners present, proceed out of order to any order of business or return to any prior order of business.

C. During the business for Findings by the POC, if any Commissioner wishes to discuss a particular Finding (CPC or Police Shooting), the Commissioner may have that Finding placed separately in that portion of the agenda. Those Findings will be handled individually from the remaining monthly IRO Findings.

D. The public record letter will not be sent to the citizen until approved by the POC. This

approval may be delegated to the Long Term Planning Committee or other POC committee.

E. The public record letter will be mailed to the complainant the next business day after approval by the POC. While the public record letter may be provided to the complainant immediately, the public record letter will not be provided to the public or the media until five days after approval by the POC or upon receipt by the complainant. The delay is to provide the complainants a reasonable opportunity to receive the information before another member of the public or the media. This is an effort to notify the complainant about the decisions of the POC before the citizen might be informed of them from another person or in the media. (Section E amended 9/14/06)

F. If the POC and Chief do not agree on their findings, the POC will wait until after the citizen has decided whether or not to appeal. If the citizen does not exercise the right to appeal, then the POC will decide whether to appeal their disagreement with the Chief to the CAO. Not all disagreements must be appealed. The POC may exercise its discretion and appeal or not as the POC decides. If the POC appeals to the CAO, upon completion of his/her review, the CAO shall take any action necessary, including overriding the decision of the Chief of Police regarding disciplinary action, to complete the disposition of the complaint. The CAO shall notify in writing and by certified mail, the complainant, the individual against whom the complaint was filed, the chief of Police, and the IRO of the results of his/her review and any action he/she has taken.

Section 6. Appeals to the POC.

A. Any person who has filed a citizen complaint and who is dissatisfied with the findings of the IRO or the Chief of Police may appeal that decision to the POC. Such persons must appeal in writing within ten business days of the receipt by the complainant of the public record letter from the IRO. If the US Postal Service is unable to deliver the public letter for reasons outside the IRO's control, the ten business days shall commence after the last attempted delivery date.

B. Notice for any appeal hearing shall be given in the agenda for the POC. The appellant shall also be notified by certified mail of the date of their appeal hearing. Appellants may request a delay in writing to a hearing date within the next two months. Failure to appear at the hearing or to request a delay in writing may result in the POC acting on the appeal without further input from the appellant.

C. Time allowed for appeals shall be as follows:

1. The preferred sequence and normal maximum times allowed shall be as follows:
    a. 15 minutes for the appellant
    b. 5 minutes for the police officer, if present
    c. 10 minutes for APD
    d. 10 minutes for the IRO
    e. 5 minutes for appellant rebuttal

2. The POC may combine separate appeals of the same action, in which case each appeal will receive an equal share of the appellant's time. The Chair shall indicate in advance the division of time. The parties shall decide on the speakers to use the time. This decision is not subject to further appeal.

D. Evidence:

1. The POC will make its decision and findings exclusively on the record of the decision appealed supplemented by any evidence allowed to be presented and matters officially noted during the appeal hearing.

2. New evidence may be accepted by the POC at the appeal hearing. Acceptance of new evidence is discretionary and the POC may rely on the evidence on the record.

3. If the POC decides that certain additional evidence is necessary and appropriate for the proper disposition of the appeal, it may accept the evidence offered during the hearing or require the IRO to obtain such evidence for them.

4. New evidence, which could have been put in the record during previous investigations or hearings, is not favored for introduction at POC appeal hearings. New evidence, which clarifies evidence already in the record, may be allowed. New evidence, which is offered to contradict evidence in the record, may be allowed if such evidence appears convincing and is on an important matter.

5. Commissioners may ask questions at any time of the appellants, the IRO, APD, witnesses, and/or, if present, the police officer. When a Commissioner asks questions, the time limit is stayed until questioning is completed. (Amended 03/05/09)

E. With regard to any appeal that has been filed with and is pending before the POC:

1. No Commissioner shall communicate outside a hearing with the appellant or the appellant's representative.

2. No Commissioner shall knowingly communicate with a member of the public or an organization about the subject of the appeal. Information and correspondence that is not in the record at the time the appeal is filed is not evidence and should not be considered in making a decision unless accepted as new evidence.

3. No commissioner shall conduct their own investigations or add their own evidence to the record regarding any appeals.

4. Any correspondence regarding the subject of an appeal that is an *ex parte* communication and is inadvertently received by a Commissioner shall be delivered to the IRO and be available for review by the appellant.

5. Notwithstanding the above, the IRO and IRO's staff may, upon the request of a Commissioner, communicate with that Commissioner at any time and by any means. Copies of any written materials from the IRO shall be distributed to all parties.

F. A Commissioner shall withdraw from any proceeding in which he or she has a direct or indirect conflict of interest or the commissioner does not believe he or she can provide a fair and impartial hearing.

1. Commissioners should err on the side of caution and withdraw from any proceeding in which there is an appearance of a conflict of interest.

2. If the number of commissioners drops below a quorum, appellants may waive the quorum and the remaining commissioners may hear and vote on the appeal.

3. If the number of commissioners drops below a quorum, the hearing may still be heard by the POC without a vote and the entire appeal forwarded to the CAO for final decision.

G. The POC may modify or change the findings of the IRO.

H. The POC may make further recommendations to the Chief regarding the findings and any discipline imposed or proposed by the Chief.

I. The Chief must notify the POC, the appellant, the individual against whom the complaint was filed, the IRO, and the original citizen complainant of his/her decision or response to the POC by certified mail within 20 calendar days of receipt of the POC decision.
J. Decisions on appeals shall be made by a majority of the Commissioners present. If the POC vote on the appeal ends in a tie, the findings of the IRO remain the final findings.

Section 7. Appeals to the CAO.

A. Any person who has filed a citizen complaint in accordance with the Police Oversight Ordinance and is not satisfied with the final decision of the Chief of Police or the POC on any matter relating to his/her complaint, may request that the CAO review the complaint, the findings of the IRO and POC, and the action of the Chief of Police by requesting such review in writing within ten business days of receipt of the Chiefs letter pursuant to §9419 (A).
B. The POC may appeal the findings of the Chief of Police to the CAO as soon as possible. As a general rule, the POC should wait until the citizen has failed to appeal before the POC appeals to the CAO.
C. The CAO shall take any action necessary, including overriding the decision of the Chief of Police regarding disciplinary action.
D. The CAO shall notify in writing, by certified mail, the complainant, the individual against whom the complaint was filed, the Chief of Police, the POC, and the IRO of the results of his/her review and any action he has taken. This completes the disposition of the complaint.

Section 8. Final Findings.

A. The final findings of the POC shall be placed with the Chiefs findings in the Internal Affairs Unit Discipline Status Sheet in the officer's Retention File.
B. If the case is appealed to the CAO, then the CAO's findings shall be the final findings. The Chief's findings and the POC's findings in APD's records shall be retained.

Section 9. Motions.

No motions shall be entertained or debated until announced by the Chair, and every motion shall be seconded. The Chair may make motions or second motions.

Section 10. Debate.

A. Any Commissioner wishing to speak, debate, make a motion, submit a report, or conduct other business shall address the Chair and shall not proceed further until recognized by the Chair.
B. If two or more Commissioners seek recognition at the same time, the Chair shall name the one who shall speak first.
C. The Commissioner who sponsors a motion shall have the privilege of opening and closing debate. A Commissioner may direct an inquiry and receive a response without yielding the floor.
D. No Commissioner shall be permitted to speak more than once on any motion until every Commissioner desiring to be heard has been allowed to speak. Nor shall any

Commissioner, except the sponsor of the motion, speak more than a total of five minutes on any motion.

E. No Commissioner shall be interrupted when speaking, nor shall any motion be in order until the Commissioner has concluded.

F. No question shall be asked of the Commissioner except those directed through the Chair with the consent of the Commissioner.

Section 11. Voting.

A. Voting shall be in the form of "Yes" or "No". Any action on a question is lost by a tie vote. Every Commissioner who is within the room shall vote upon each question, except those who have disqualified themselves due to a conflict of interest.

B. A Commissioner shall be allowed to change his/her or her vote, but only before the result has been announced.

C. A Commissioner may request to vote by telephone or other similar device when a medical or emergency situation exists. Such voting can only take place upon the approval of the Chair and provided that the Commissioner can be heard on a speaker to enable the POC and the public to determine when the Commissioner is speaking and casting a vote.

D. Reconsideration. Any Commissioner who voted with the prevailing side on any question may move at the same meeting to reconsider the question. A motion to reconsider shall require the affirmative vote of a majority of Commissioners present.

E. An appeal may be made on any decision of the Chair. The Commissioner appealing the Chair's decision will speak and the Chair may respond. Such appeals shall be acted upon immediately and no other motions shall be entertained until the question has been decided. A vote of the majority of the Commissioners present shall be required to sustain an appeal.

F. Any commissioner may move to end debate. A majority of the commissioners present must agree to end the debate or it may continue.

Section 12. Decorum.

Commissioners or other speakers shall confine their remarks to the question under discussion or debate, avoiding personal attacks. No Commissioner shall engage in private discourse or commit any other act tending to distract the attention of the POC from the business before it.

Section 13. Early Departure.

Any commissioner leaving a POC meeting early shall make the Chair aware of such departure as early as possible, so that allowances in scheduling business can be made. Any Commissioner leaving a Committee meeting when the departure will cause a loss of quorum shall make every effort to secure and alternate Commissioner to sit on the Committee.

Section 14. Selection of the Independent Review Officer.

A. When the IRO position becomes vacant or will become vacant in the near future, the POC will undertake a candidate search. The POC will screen, interview, and select

three candidates to be considered by the Mayor. The interviews and selection of the three candidates will occur during regularly scheduled meetings and be televised to the public.

B. The IRO staff will assist the POC in the placement of the advertisements and any work with the Human Relations staff as required.
C. The qualifications for the IRO position will minimally include the requirement of a law degree and five years experience in criminal investigations. The position of IRO will be a fulltime contractual city employee.
D. The Mayor will select one of the three candidates and forward the nomination to the City Council.
E. In the event the City Council rejects the nominee, the Mayor shall submit his/her second recommendation from the remaining two names submitted by the POC.
F. If the City Council rejects the second nominee, the process shall begin with a second candidate search by the POC.

Section 15. Time Computation.

In computing any period of time prescribed or allowed by these rules, by the Police Oversight Ordinance, or by any applicable statue or ordinance, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included. The requirement to file a complaint within 90 days of the incident is to be counted by calendar days, including weekends and holidays. If a complaint is filed on the 91st day, regardless of whether it is a weekend or holiday, the POC has no authority to investigate that complaint.

Article IV-Powers and Duties of the Commission

Section 1. Source of Authority.

A. The Police Oversight Commission and the Independent Review Office were established in 1998 by the City Council for the City of Albuquerque in the Police Oversight Ordinance, 3 11998,
subsequently codified as Chapter 9 of the
Albuquerque Code of Ordinances, §94l1
et seq. ROA 1994.

B. The Commission is the governing authority of the Independent Review Office and has the power to promulgate rules implementing the provisions of the law upon City Council approval of these rules and regulations.

Section 2. Purpose.

A. A properly conceived and functioning police oversight system is necessary to promote accountability of the police officers and protect the rights of civilians.
B. The commission is to provide a means for prompt, impartial, and fair investigation of all citizen complaints brought by individuals against the Albuquerque Police Department.
C. The commission is to provide for community participation in recommending and reviewing police department policies, practices and procedures.
D. The commission is to promote a spirit of accountability and communication between the citizens and APD while improving community relations and enhancing public confidence.
E. The commission will oversee the full investigation and/or mediation of all citizen complaints.
F. The commission will audit and monitor all investigations and/or police shootings under investigation by APD's Internal Affairs.
G. The commission will gain the cooperation of APD and solicit public input by holding regularly scheduled meetings.
H. The commission will engage in a long term planning process through which it identifies major problems and establishes a program of policy suggestions and studies each year.
I. The commission will recommend to the Mayor and City Council during the City's budget process, their proposed budget for provision of such staff as is necessary to carry out the powers and duties of the Police Oversight Ordinance, including the funding for the Independent Review Office, staff, and all necessary operating expenses.

Section 3. Subpoenas.

A. The Police Oversight Commission may issue subpoenas on its own initiative, in which case a showing of relevance is not required and an appeal need not be pending.
B. The subpoena shall be issued by the City Clerk's Office and signed by the Chair of the Police Oversight Commission or his/her designee.
C. Any applicable witness and travel fees and costs associated with service of process shall be the responsibility of the Police Oversight Commission.

D. Subpoenas will not be issued for Albuquerque Police Department officers to appear before the Police Oversight Commission or any of its committees.

Section 4. Burden of Proof.

A. All findings will be made based on a preponderance of the evidence.
B. The burden of proof is not on any particular party to the complaint.

Section 5. Inactivation/Dismissal of Citizen Police Complaints.

A. The IRO, with the approval of the POC, may inactivate or dismiss CPCs.
B. Complaints may be inactivated for any one of the following reasons:
   1. The complaint was not filed within 90 days of the incident. In counting the number of days, the day of the incident is not counted, regardless of the time of day. The day after the incident is the first day.
   2. The officers complained about are not APD officers.
   3. The officer is deployed for military duty for an extended period of time.
   4. If, after thorough investigation, the officer involved in the alleged conduct cannot be identified.
   5. The complaint was successfully mediated.
   6. The citizen withdrew the complaint. If the IRO determines the complaint is too serious to ignore, the complaint may be investigated even if the citizen attempts to withdraw it.
   7. The complaint contains no allegations of violations of Standard Operating Procedures.
   8. Allegations concern the perjury of officers during testimony in court. These are determinations to be made by the court or District Attorney.
   9. Complaints of criminal action by the officers. Criminal cases may be investigated first as a criminal matter and after the criminal investigation is completed, the CPC may be reopened.
   10. The IRO/POC determines the complaint is frivolous on its face or is being brought for the purpose of harassment.
   11. The IRO/POC determines that the complainant has mental health issues and is unable to comprehend the situation. In this case, CIT may be asked to evaluate the complainant prior to the complaint being fully investigated.
C. The IRO/POC may require the full investigation of a complaint before inactivating it. The complaint may also be referred to the Internal Affairs for them to conduct an Internal investigation. (Last sentence added and amended 9/14/06)
D. Dual CPC and Internal Administrative Investigations
   1. If a citizen complaint is timely filed and directly related to an incident that is the subject of an Internal affairs administrative investigation that has not been completed, the investigation shall become a CPC.
   2. If a citizen complaint is timely filed and directly related to an incident that is the subject of an Internal Affairs administrative investigation that has been completed, the investigation shall remain an internal administrative investigation except that the citizen shall have all the rights of appeal just as if it were a CPC.
   3. Regardless of whether there have been dual CPC and Internal Affairs administrative investigations, only one entry shall be made into the officers' files.

Section 6. Attendance at the National Association of Civilian Oversight of Law Enforcement annual conferences.

A. Attendance by all commissioners is highly encouraged. The City of Albuquerque will pay the travel and attendance expenses of as many commissioners each year as fiscally responsible. Commissioners are also encouraged to attend at their own expense.
B. The Chair shall select which commissioners may attend and in which priority order for funding. The Chair shall consider such factors as whether the commissioner has attended previously and when the term of the commissioner ends. The decision of the Chair is final.
C. The IRO and IRO staff should attend whenever financially feasible.

Section 7. Complaints about POC Commissioners.

A. The Police Oversight Commission will not address complaints against another commissioner. All Complaints of this nature will be forwarded to the Mayor's liaison to the POC.
B. If the complaint relates to a possible conflict of interest, commissioners will consider the complaint and decide whether an appearance of a conflict of interest exists and act accordingly.

Section 8. Complaints about the IRO.

A. The POC acts like the supervisor over the IRO. See §94l5(B), 9416(H), and 9417(D).
B. The IRO is a fulltime contractual city employee governed by the contract with the City and the Police Oversight Ordinance.
C. The Police Oversight Commission reviews all complaints against the IRO and may take some actions or may recommend to the Mayor that certain supervisory actions be taken, including dismissing the complaint, conducting their own informal investigation into the complaint, recommending specific administrative action, requesting additional formal investigation, etc.
D. To the fullest extent possible and in accordance with the Police Oversight Ordinance, this process will be made public.

Section 9. Complaints by the IRO/POC against APD officers.

A. This section applies to complaints that the IRO or POC commissioners may file as individuals based on incident they may have personally witnessed or where they are claiming to be aggrieved by actions of the Police.
B. Complaint filed by a commissioner.
   1. The Commissioner will be excused from participating on any findings, votes, or recommendations concerning the complaint.
   2. POC commissioners will decide individually whether or not they have an appearance of a conflict of interest. Any POC commissioner may raise the possibility of a conflict of interest by another POC commissioner.
   3. If there is not a quorum of commissioners available to make decisions, then the appeal may be heard by the POC, but no findings or recommendations will be made

on the complaint and the appeal will be forwarded to the CAO for final decision.

C. Complaints filed by the IRO staff.

1. The IRO staff will not investigate this complaint. It may be investigated by IA at the discretion of the IRO.

2. If the IRO decides it would be inappropriate for IA to investigate the complaint, the IRO may hire an independent investigator to investigate the complaint.

3. The IRO will make findings unless there is a conflict of interest. These findings will be reviewed by the Chief of Police and finalized by the POC in the same manner as other citizen complaints. (Amended and Section added 9/14/06)

D. Complaint filed by the IRO.

1. The IRO will be excused from participating on any findings or recommendations as the IRO concerning the complaint, but may act and is entitled to the same rights as any person who filed a complaint.

2. The IRO will hire an independent investigator to investigate the complaint, make findings, and write the public record letter.

3. The independent investigator will act as the IRO.

a. Ensure the investigation is thorough, impartial, and free of political influences.

b. Write the public record letter, including therein the summary and conclusions from the officers' compelled statements.

c. Ensure the public record letter is mailed to the IRO, who may appeal the findings to the POC.

d. The POC will not make findings or recommendations on the IRO's complaint, but may hear the appeal.

e. The appeal will be sent to the CAO for final decision.

Section 10. POC and IRO right to counsel.

A. The City Attorney has assigned the Assistant City Attorney for the Police Oversight Commission to be the Commissions and IRO's attorney with full rights to attorney client privileges and attorney confidences. This privilege extends to the administrative staff for the Assistant City Attorney.

B. Should the Assistant City Attorney believe there is or may be a conflict among the Commissioners and IRO, then he/she will advise the commission and IRO of the possible conflict at the earliest opportunity. The commissioners and IRO may attempt to resolve the possible conflict. If it cannot be resolved, then the Assistant City Attorney will advise the City Attorney, who will make efforts to provide legal advice to all parties at no cost to the commissioners or IRO.

Section 11. Indemnification of IRO and POC.

A. In the event the IRO is named as defendant in any lawsuit in connection with advice given or actions properly taken under the terms of the IRO's contract, the City will indemnify, provide representation, including outside counsel, if appropriate, and hold the IRO and/or staff harmless for any liability or claim which is or may be asserted in the capacity of IRO arising out of the IRO's agreement with the City and while acting on behalf of and in service to the city in an official capacity.

B. The City shall provide POC commissioners with legal representation including, if appropriate, outside counsel. The City will hold the POC Commissioners harmless for any liability or claim which is or may be asserted while the Commissioners act on behalf of and in service to the city in their capacity of POC Commissioners.

Article V-Procedures When the IRO Is Absent or There Is No IRO

(This article was added and amended on 3/8/07)

Section 1. The Independent Review Officer Is Critical.

The Independent Review Officer is critical to successful civilian oversight of the police department. This is recognized by Section 9417 ROA 1994 of the Police Oversight Ordinance,

which provides for the IRO's contract to continue until a new IRO is selected and approved by the City Council. It also provides for the temporary appointment of an IRO to serve no more than six months until a new IRO is appointed.

Section 2. Prolonged or Temporary Absence of IRO.

In the event of prolonged, temporary absence of the Independent Review Officer or during a period after an IRO has ended contractual obligations with the City and a temporary appointment has not yet been completed, the following procedures will be used to process Citizen Police Complaints (CPCs).

A. All Citizen Police Complaints will be assigned to the investigators in the Independent Review Office until the Chair of the Police Oversight Commission or his/her commissioner designee determines that the investigators workload is too large and some complaints should be assigned to the APD's Internal Affairs Office for investigation.

B. The IRO Office investigators will continue recommending findings on allegations of violations of Standard Operating Procedures.

C If the Chief of Police non-concurs with an IRO investigator's findings, the Chief or his/her designee will contact the IRO investigator and discuss the disagreement. The IRO investigator will consult with the other IRO investigators.

D. If the investigators agree with the Chief, then the investigator will change the recommended findings to concur with the Chiefs findings in that investigation. Those findings will be entered into the Officers' Retention File and on the Internal Affairs Unit Disciplinary Status Sheet.

E. If the investigators still disagree with the Chief, then the Chief or his/her designee will address the Police Oversight Commission to support his/her findings. The POC will vote on the findings for which there are non-concurrences. The findings of the POC will be entered into the officers' records as required above.

F. There will be no public record letter containing the IRO summary of the investigation and findings, since there is no person serving as IRO. Therefore, the Chief will submit his/her complainant letters to the Police Oversight Commission at its monthly meetings.
1. If the POC approves the findings concurrently agreed by the Chief and the IRO investigators, then the Chair or his/her designee will send a letter to the citizen complainant indicating the POC's approval.
2. If the POC has a non-concurrence with the Chief, then the Chair or his/her designee will send a letter to the citizen complainant indicating both the POC's and the Chiefs findings.

G. All investigations into the citizen police complaints conducted by the Internal Affairs during this time period will be reviewed by the Independent Review Officer as soon as

practicable upon return or appointment. The IRO will advise the POC of his/her conclusions.

HISTORY: On November 8, 2012, the POC deleted former Article II, Sections 3(H) and 3(I), of the Police Oversight Commission Rules and Regulations 2009, which stated:
3(H). Complaints in which the IRO and Chief of Police disagree or non-concur will be reviewed by the Long Term Planning Committee. Their recommendations will be addressed by the Police Oversight Commission; and
3(I). The IRO's findings of police shootings will be reviewed by the LTPC and presented to the POC at the next regular meeting.

On December 13, 2012, the POC deleted former Article III, Section 5(F), which stated:
If the Chief and the IRO disagree on the findings of any citizen police complaint or police shooting, the LTPC will review the findings and make recommendations to the POC. All proposed recommendations will be presented to the POC for its consideration at the next regular meeting.

CITY OF ALBUQUERQUE
Legal Department
PO Box 2248, Albuquerque, NM 87103
(505) 768-4500
FAX (505) 768-4525

Richard J. Berry, Mayor — David Tourek, City Attorney

MEMORANDUM OF LAW

TO: **Commissioners of the Police Oversight Commission and the Independent Review Officer**
FM: **David Tourek, City Attorney for the City of Albuquerque**
SUBJ: **Legal Memorandum Addressing Issues Regarding the POC**
DATE: **October 10, 2013**

INTRODUCTION

Police Oversight Commissioner Dr. Carl Foster requested a report from City Legal on what might be called two global issues. Commissioner Foster wanted to know what the relationship was between the Police Oversight Commission ("POC") and the Long-Term Planning Committee ("LTPC"), and what the relationship was between the POC and the Independent Review Officer ("IRO")[1]. These issues did not arise under a particular set of facts giving rise to a specific legal controversy, but rather were broad and encompassing legal questions that Commissioner Foster thought were important to the proper functioning of the POC, IRO and LTPC.

Assistant City Attorney John E. DuBois gave that verbal report to the Police Oversight Commission on September 12, 2013, during the regularly scheduled period for reports from City Legal. Since that time, there have been requests from several quarters to have that report reduced to written form. This Memorandum of

[1] Independent Review Officer and Independent Review Office have the same acronym, IRO. This can be quite confusing. In this Memorandum, 'IRO' will equal 'Independent Review Officer' and 'IR Office' will refer to the Independent Review Office'.

Law is the answer to those requests and will expand and refine the report given on September 12th.

City Legal intends for this legal analysis to provide needed direction to the POC, the IRO and the LTPC. It should be recognized, however, that the more general and abstract the question, the more general and abstract the answer. This is especially true when, as here, the ordinance and rules and regulations that govern the POC and IRO are not perfectly consistent on a system wide basis and are at points ambiguous. City Legal reserves its right to address future particular legal issues that arise under a specific factual situation. However, this Memorandum represents the official position of City Legal.

ISSUE ONE: What is the relationship between the POC and the LTPC?

CONCLUSION: The LTPC is a standing subcommittee of the POC which is to consider the POC/IRO budget. The LTPC may consider other subjects or issues only if successfully referred to it by the Chair of the POC. Such referrals should be limited tasks and should be well-defined with clear guidance and time deadlines. Any permanent change in the LTPC subject-matter jurisdiction should be done by a rule amendment.

REASONING: The relationship between the POC and the LTPC is first and foremost the relationship between a commission or board that has been established by ordinance and a subordinate committee of that commission or board that has not been established or defined by ordinance. There is no mention of the LTPC in any ordinance including the Police Oversight Ordinance, §§ 9-4-1-1 to 9-4-1-14, ROA 1994 ("POO"), but it is mentioned in the Police Oversight Commission Rules & Regulations 2012, as amended to 12/13/12 ("POC Rules & Regs").

Who engages in "long-term planning" for the POC?[2] Turning to the POO, we find § 9-4-1-5 (G) which states:

> § 9-4-1-5 POWERS AND DUTIES OF THE COMMISSION.

[2] It is important to note that if 'long-term planning' includes advice on APD policies and procedures, the IRO also has an independent role to play. *See* § 9-4-1-6 (C) which states:

> § 9-4-1-6 INDEPENDENT REVIEW OFFICE.
> ...(C) ...For all investigations, the IRO will make recommendations and give advice regarding Departmental policies and procedures to the POC, City Council, and the Mayor as the IRO deems advisable...

The Police Oversight Commission shall have the following powers and duties:
... (G) To engage in a long-term planning process through which it identifies major problems and establishes a program of policy suggestions and studies each year.

This is buttressed by § 9-4-1-10 (E) of POO which states:

§ 9-4-1-10 REPORTS.
The POC shall be responsible for regularly informing the Mayor, the City Council, and the public by submitting quarterly reports that contain the following types of information:
...(E) The status of the long-term planning process identifying major problems, policy suggestions, and studies as required by Section 9-4-1-5 of this ordinance.

In the POC Rules & Regs, we find Article IV, Section 2 (H):

Article IV-Powers and Duties of the Commission
...Section 2. Purpose.
... H. The commission will engage in a long term planning process through which it identifies major problems and establishes a program of policy suggestions and studies each year.

It is quite clear under both the POO and the POC Rule & Regs, it is the POC as a whole that is to do the long-term planning and that long-term planning is an important function of the POC.

As a matter of fact, however, a LTPC does exist. So what is it supposed to do, especially given its name? There is nothing in the POO about the LTPC, but its subject-matter jurisdiction is mentioned explicitly in the POC Rules & Regs in a single place, Article II, Section 3 (A), which states:

Article II, Section 3. LTPC and Other Committees.
A. The IRO/POC budget shall be considered by the Long Term Planning Committee.

There is no other direction or definition of what work the LTPC is to do as a standing committee.[3]

[3] Article III, Section 5 (A) (8) recognizes the LTPC as a standing committee by actually giving it a permanent slot on the agenda. It states:

Thus, pursuant to the plain language of the POO and the POC Rules and Regs, and absent any other consideration, the POC should engage in the long-term planning and the LTPC should consider the budget.[4]

Just because the LTPC must consider the budget does not mean that it, or other subcommittees, cannot consider other matters and take on other tasks to aid the POC in long-term planning. § 9-4-1-4 (G) of POO states:

> The POC may appoint such subcommittees as are deemed necessary or desirable for the purposes of §§ 9-4-1-1 through 9-4-1-14, provided that, membership on such subcommittees shall be limited to the Commission members.

> A. The POC shall consider business in the following order:
> ...8. Issues from LTPC

This may well be a vestige from the era when LTPC by rule had a much larger subject-matter jurisdiction, but it remains in place.

Article III, Section 5 (D) of the POC Rules & Regs does recognize that approval of public record letters *may* be delegated to the LTPC. It states:

> D. The public record letter will not be sent to the citizen until approved by the POC. This approval may be delegated to the Long Term Planning Committee or other POC committee.

Thus, it is made clear that the LTPC is a standing committee to which things can be delegated besides budget issues if done so properly.

[4] It should be noted that in the past the LTPC had a much larger role, but this was taken away by rule changes until only the budget remained. At the end of the POC Rules & Regs, it is noted (emphasis added):

> HISTORY: On November 8, 2012, the POC deleted former Article II, Sections 3(H) and 3(I), of the Police Oversight Commission Rules and Regulations 2009, which stated: 3(H). Complaints in which the IRO and Chief of Police disagree or non-concur will be reviewed by the ***Long Term Planning Committee***. Their recommendations will be addressed by the Police Oversight Commission; and 3(I). The IRO's findings of police shootings will be reviewed by the ***LTPC*** and presented to the POC at the next regular meeting.
> On December 13, 2012, the POC deleted former Article III, Section 5(F), which stated: If the Chief and the IRO disagree on the findings of any citizen police complaint or police shooting, the ***LTPC*** will review the findings and make recommendations to the POC. All proposed recommendations will be presented to the POC for its consideration at the next regular meeting.

Given this reduction in the LTPC's subject-matter jurisdiction, its name has become misleading which may have led to some of the confusion that is currently being experienced. The Chair should consider changing the name of the LTPC to something more appropriate like 'the budget committee' through a rule amendment.

Thus, the POC can create subcommittees by majority vote only after the Chair of the POC initiates the creation of a subcommittee. Article II, Section 2 (B) (8) of the POC Rule & Regs states:

> **Section 2. Powers and Duties of the Chair and Vice Chair.**
> ...B. The Chair shall possess the powers and perform the duties herein described, to wit the Chair:
> ...8. Shall appoint all Committees whether standing, joint, or special, subject to the approval of the POC. Committees shall consist of any number of Commissioners less than a quorum.[5] The Chair shall designate the Chair for each committee, subject to the approval of the POC.

The best practice would be for the Chair to make a motion to create a particular subcommittee. The motion should indicate whether the subcommittee is to be standing[6], joint or special. If it passes, the Chair should then make appointment motions, starting the chair of the subcommittee.

Once the subcommittee is established and peopled, the Chair of the POC has the power to refer tasks to that subcommittee.[7] Article II, Section 2 (B) (11) of the POC Rule & Regs states:

> **Section 2. Powers and Duties of the Chair and Vice Chair.**
> ...B. The Chair shall possess the powers and perform the duties herein described, to wit the Chair:
> ...11. Shall hold over or refer to the appropriate Committee any issues of interest to the POC.

The best practice would be for the Chair to make such referrals in writing so that it is clear exactly what is referred, what the subcommittee is to do with the referral, and the time the subcommittee is expected to take on the referral. It would be poor practice to refer a laundry list to a subcommittee with no guidelines, no parameters and no deadlines or time table. To put it simply, defined and limited tasks, not general unlimited missions, are what should be referred to a subcommittee.

---

[5] The requirement of less than a quorum may have been abolished by a rule change but that change has not found its way yet into the Rules & Regs as published on the IRO website. *See* http://www.cabq.gov/iro/documents/POCRulesandRegulations2012.pdf

[6] Standing subcommittees, their defined mission, and their subject-matter jurisdiction should memorialized in a rule amendment. The only standing subcommittee currently is the LTPC which is mentioned in POC Rules and Regs and it is limited to considering the budget.

[7] If individual Commissioners disagree with the Chair's decision to make the referral, they can make a motion to overrule the referral, i.e., appeal the decision of the Chair. *See* POC Rules & Regs, Article III, Section 11 (E).

To have a subcommittee, even a standing subcommittee, defining and creating its own tasks is a usurpation of the powers of the Chair and the POC as a whole, and would be contrary to the intent and spirit of the POO and the POC Rules & Regs.[8] As to LTPC, its subject-matter jurisdiction has traditionally been encoded in the POC Rules & Regs, so best practices would dictate that any permanent change of the subject-matter to be heard or undertaken by the LTPC should be accomplished through a rule change.

The question arises as to whether the power of the Chair of the POC to create subcommittees, appoint its members, and refer tasks to it is exclusive to the Chair, or if any Commissioner can accomplish the same thing by making a motion which receives a majority vote. A restrictive reading of the POC Rules & Regs in this instance is logical because otherwise the statement of the "powers" of the Chair would be redundant. It is clear that the Chair has any power that any other member of the POC has. See Article II, Section 2 (B) (6). If the POC retained these powers rather than delegated these powers to the Chair, why did it not state so in the POC Rules & Regs? Such retention is notably absent from Article IV-Powers and Duties of the Commission and everywhere else in the POC Rules & Regs. Furthermore, such power to the Chair is consistent with other provisions that demonstrate the control the Chair has over subcommittees.[9]

There can be no doubt that the POC Rules & Regs, which were approved by both the Mayor and the City Council (see § 9-4-1-8 (A)), contemplates a Strong Chair form of commission organization. Nevertheless, the POC Rules & Regs provide a check and balance on that power. *See*, e.g., Article III, Section 11 (E) (An appeal may be made on any decision of the Chair.).

---

[8] Article II, Section 3 (E & F) of the POC Rules & Regs should be followed:

E. Every report of a Committee, upon matters referred to the Committee, shall be in writing and addressed to the Chair of the POC. Reports of a minority of a Committee may be submitted and included in the Committee report.

F. The Committees shall report on all matters referred to them without unnecessary delay. If a Committee refuses or neglects to report on any matter referred to it, the Chair may take the matter from the Committee.

[9] *See* Article II, Section 3 (E & F) (emphasis added) which states:

> Article II-Organization of the Police Oversight Commission. Section 3. LTPC and Other Committees.
> ...E. Every report of a Committee, upon matters referred to the Committee, shall be in writing and addressed to the Chair of the POC. Reports of a minority of a Committee may be submitted and included in the Committee report.
> F. The Committees shall report on all matters referred to them without unnecessary delay. If a Committee refuses or neglects to report on any matter referred to it, the Chair may take the matter from the Committee.

ISSUE TWO: What is the relationship between the POC and the IRO?

CONCLUSION: The relationship between the POC and the IRO is a complex one that defies a simple description. However, by utilizing statutory interpretation principles, institutional history, careful legal analysis, and awareness of early past practices, some basic but firm conclusions can be reached. The POC and the IRO are both autonomous and independent in most situations, but they do interface in a manner such that, on some particular matters, the POC is dominant, on other particular matters, the IRO is dominant, and on still other matters, the POC and the IRO are separate but equal. The result is that each owes the other a great deal of deference and respect, and each should be willing to work together in a constructive manner in order to achieve their common goal of effective, fair and credible police oversight. Each should hesitate to encroach upon the expertise and domain of the other. Neither is empowered to micro-manage the other. The POC should not get involved with the minutia of the IRO's investigations, should pay special deference to the findings of the IRO until there is an appeal to the POC. There is certainly no proper cause for individual POC Commissioners demanding the IRO undertake menial tasks or to treat the IRO or the IR Office in a demeaning manner.

REASONING: To answer this broad issue, it is important to examine the institutional history of police oversight in Albuquerque, to apply legal principles such as the separation of powers and statutory interpretation, to review the IRO contract, and to analyze the pertinent City ordinances and the Rules and Regulations of the POC.

Institutional History

Historically, the IRO began as the Independent Counsel, an attorney on contract who worked with internal affairs. POC began as the Public Safety Advisory Board, a commission who looked at all kinds of policy related to public safety issues that extended far beyond the police department and made recommendations to the City Council and the Mayor. The Independent Counsel seldom and perhaps never interfaced with the Public Safety Advisory Board. The POO, §§ 9-4-1-4 through 9-4-1-14, transformed these separate and independent entities to create

something new.[10] The institutional history constitutes a brick in favor of the concept of the POC and IRO being separate and independent from each other.

Separation of Powers

As currently constituted the POC is more aligned with the legislative branch --- e.g., the Commissioners of POC are nominated by the City Councilor by district (2 names submitted to the Mayor, the Mayor then picks one, then the full City Council votes on whether to approve the nomination.) *See* § 9-4-1-4 (C). The IRO, on the other hand, is more aligned with the executive branch. The POC sends 3 names to Mayor for the Mayor's 'consideration'.[11] § 9-4-1-7 (B) (1). The IRO contract is signed by CAO. It contains a long lists of duties, none of which indicate the IRO is managed by the POC. (A copy of the current IRO contract has been attached to this Memorandum.) Importantly, the Mayor decides whether to terminate the IRO contract.[12] The Mayor exclusively decides whether to extend the IRO contract for additional 2 year periods with City Council having the right of approval. § 9-4-1-7 (E). The Mayor has the exclusive power to select the acting IRO when there is a need for one, with City Council having the right of consent and approval. *Id.*

City Legal is aware that some may wish to twist this into something it is not, so it is important to be very clear on this point. The POC resonates enough in the legislative branch, and the IRO resonates enough in the executive branch to bring the separation of powers concept[13] into play, but that is it. In no way is City Legal saying that the POC 'works for' the City Council or that the IRO 'works for' the Mayor. Application of the concept of separation of powers is a brick favoring the

---

[10] See § 9-4-1-3 (A) – (H).

[11] Compare this to the Accountability in Government Oversight Committee which selects 3 candidates for Director of Internal Audit but sends those names directly to City Council rather than to the Mayor. § 2-10-6, ROA 1994.

[12] Compare this also to the Accountability in Government Oversight Committee which can decide to discipline the Director of Internal Audit and even remove the Director from office. § 2-10-5 (O), ROA 1994. *See also*, § 2-17-5 (E) (Accountability in Government Oversight Committee can remove the Inspector General from office by majority vote). In fact, the Director and the Inspector General must report to the Accountability in Government Oversight Committee for approval of vacation, sick, emergency and city business leave. § 2-10-5 (O). None of these kinds of controls is given to POC in regards to IRO which further demonstrates that the IRO is separate and independent from the POC.

[13] On the application of the separation of powers doctrine to municipal governments, *see* Martindale v. Anderson, 581 P.2d 1022 (Utah 1978). *See also*, Bradley E. Morris, *Separation of Powers in Municipal Government: Division of Executive and Legislative Authority*, 4 B.Y.U. L. Rev. 961 (1978); Mowrer v. Rusk, 95 N.M. 48, 618 P.2d 886 (1980) (application to municipal court employees to find a violation of separation of powers); Jacob Alderdice *Impeding Local Laboratories: Obstacles to Urban Policy Diffusion in Local Government Law*, 7 Harvard Law & Policy Rev. 459 (Summer 2013)("Proponents of strong mayors thus tout the leadership, accountability, and separation of powers that the mayor-council system provides.")

notion that the POC and the IRO are separate and independent from each other.[14] That much is clear.

The Police Oversight Ordinance and the POC Rules and Regulations

It is important to read the POO and the POC Rules & Regs *in pari materia*, i.e., as a whole rather than locking onto a single part or section and ignoring others.[15] One must look at each particular bit of text as a brick rather than as a wall. However, as one accumulates bricks, you eventually have a wall. From the perspective of the wall you must then go back and re-examine each brick. Utilizing this methodology you eventually gain a better understanding of the wall and each brick within it. Additionally, it is often as important as to what is *not* said as to what *is* said. Comparing what City Council has legislated in similar situations is also useful.[16]

First, a few general observations. The POO and the POC Rules & Regs go to pains to treat and refer to the POC and IRO separately. When they wish to refer to them together, they use the term "POC/IRO." This would highly unusual if the IRO was considered to be merely a section or division under the POC. In fact, it might be useful to think that there are really three entities at play here, the POC, the IRO, and the POC/IRO, i.e., POC and IRO acting jointly together.
The pertinent text will be given, starting with the POO and then the POC Rules and Regs, and then each will be commented upon.

> § 9-4-1-4 (H) That the POC and its investigative arm, the IRO, shall be housed in a facility that is separate from any police presence...

Here 'IRO' probably stands for both the IRO and the IR Office. The reference that the IRO and the IR Office is the "investigative arm" of the POC is interesting. For example, the U.S. Government Accountability Office ("GAO") is "the investigative arm of Congress" but is "independent" and "nonpartisan". There are

---

[14] Some might argue that the POC and IRO are neither legislative nor executive. However, when City Council wants to create an office outside the branch of government analysis, they know how to do so. For example, the Inspector General Ordinance states: "The Office of the Inspector General is created as an independent office of city government. The Office is not part of the city's executive branch or the City Council." § 2-17-4 (A). The fact that the City Council did not include such language in the POO is strong evidence that a separation of powers analysis is appropriate here.

[15] United Rentals Northwest, Inc. v. Yearout Mechanical, Inc., 148 N.M. 426, 237 P.3d 728, 2010 -NMSC- 030, N.M., June 17, 2010 (NO. 31,860)

[16] For example, comparing the ordinance language on the relationship between the Government Accountability Oversight Committee and the Inspector General and the Director of Internal Audit, § 2-10-1, et seq., ROA 1994, and § 2-17-1, et seq., ROA 1994, to the ordinance language in POO as to the relationship between the POC and IRO is very useful. *See* footnote 9 above.

other similarities between the GAO and IRO that indicate the analogy is an informative one. *See* http://www.gao.gov/about/index.html; and http://en.wikipedia.org/wiki/Government_Accountability_Office. Thus, this reference to the IR Office being the investigative arm of the POC is either neutral or slightly siding with separate and independent view.

> § 9-4-1-5 POWERS AND DUTIES OF THE COMMISSION.
> The Police Oversight Commission shall have the following powers and duties:
> ... (D) To review all work of the IRO with respect to quality, thoroughness, and impartiality of investigations.

If the POC directly managed the IRO, this would be unnecessary. This implies that IRO is independent of the POC but has his or her work assessed by the POC. The best practice would be to give the POC assessment in writing in the form of a letter to the Mayor some time before the bi-annual anniversary renewal of the IRO contract. Of course, if at any time the POC has reason to find that the IRO is failing to fulfill his or her duties, the POC can send a letter to the Mayor recommending the Mayor terminate the contract immediately.

> § 9-4-1-6 INDEPENDENT REVIEW OFFICE.
> (A) The Independent Review Office is hereby established and shall be directed by an Independent Review Officer (IRO).

The separate establishment of an IR Office under the direction of the IRO, plus its name including the word "independent" is strong evidence that both the IR Office and the IRO are separate and independent from the POC.

§ 9-4-1-6 (B) of POO is perhaps one of the most problematic. It states:

> § 9-4-1-6 INDEPENDENT REVIEW OFFICE.
> ... (B) The IRO shall be given autonomy and shall perform all duties under the direction of the POC.

Looking at this provision with selective emphasis gives one conclusion.

> ... (B) **The IRO shall be given autonomy** and shall perform all duties under the direction of the POC. [Selective emphasis added]

Now look at it with a shift in emphasis which gives a different impression.

> ... (B) **The IRO** shall be given autonomy and **shall perform all duties under the direction of the POC.** [Selective emphasis added]

What is one to make of this? This provision certainly at first blush sends mixed signals almost to the point of being an oxymoron.[17] However, upon close examination, some things can be noted. First, "autonomy" is a strong and well-defined word. It means having independence and freedom, and, most importantly, being self-governing.[18] Second, "under the direction of" is weaker and more ambiguous since 'direction' is a polysemous word. Furthermore, the very next subsection of the POO makes it clear the IRO is certainly not under the strong direction of the POC. At most, especially considering the POO as a whole, the phrase "under the direction of …" in this instance must mean something like 'under the loose guidance of…'

§ 9-4-1-6 (C) of POO is of interest. It reads:

> § 9-4-1-6 INDEPENDENT REVIEW OFFICE.
> …(C) …For all investigations, the IRO will make recommendations and give advice regarding Departmental policies and procedures to the POC, City Council, and the Mayor as the IRO deems advisable…

Note that subsection C comes right after the problematic subsection B of POO which was discussed above. In addition, it appears to be contrary to § 9-4-1-7 (D) ("The IRO will report directly to the POC…"). Here the IRO is recognized to be able to act on his or her own and at his or her discretion on the important matter of giving advice regarding APD policies and procedures, and to make those recommendations and give those bits of advice not just to POC, but to the City Council and the Mayor as well. This is strongly consistent with the notion that the IRO is independent and self-governing.

Perhaps the best description of the relationship between the POC and IRO occurs near the beginning of the POO and at the end, the alpha and omega of the POO if you will. Near the beginning of POO, § 9-4-1-3 (H) states: "The [City] Council further believes that it is beneficial to … establish an Independent Review Office to function *under the auspices of* the Police Oversight Commission." (emphasis added) 'Auspices' means "kindly patronage and guidance."[19] It certainly does not mean 'direct management'. At the very end of POO, § 9-4-1-14 states: "The City Council believes that full participation and cooperation of all parties involved is

---

[17] This phrase is repeated in the IRO contract as one of the 'whereas' clauses.

[18] **Black's Law Dictionary**, 7th ed., p. 134, gives under 'autonomy': "the right (and condition) of power of self-government."

[19] http://www.merriam-webster.com/dictionary/auspice

essential to the success of the new police oversight process and its IRO..." Thus, the IRO does not belong to POC but rather belongs to an entire police oversight system as a whole, and of which the POC is also an important but separate part. The POO provides the best evidence of the relationship between the POC and the IRO. However, the POC Rules & Regs and the IRO contract, also provide some evidence which fortunately is in accord with the conclusion that the IRO works independently.

The POC Rules & Regs must be read carefully and understood within context. Article IV, Section 1 (A & B) states:

> **Article IV-Powers and Duties of the Commission**
> **Section 1. Source of Authority.**
> A. The Police Oversight Commission and the Independent Review Office were established in 1998 by the City Council for the City of Albuquerque in the Police Oversight Ordinance, 3 11998, subsequently codified as Chapter 9 of the Albuquerque Code of Ordinances, §9411 et seq. ROA 1994.
> B. The Commission is the governing authority of the Independent Review Office and has the power to promulgate rules implementing the provisions of the law upon City Council approval of these rules and regulations.

Article IV, Section 1 (A) recognizes that the POO created the POC and IRO separately. Article IV, Section 1 (B) taken out of context would seem to imply that the POC governs all the activity of the IRO. This would be a misreading. Given the context of Article IV, Section 1 (B), and in light of the POO and other provisions of the POC Rules and Regs, this statement simply means that it is POC, not the IRO, who has rule-making authority. This is consistent with § 9-4-1-8 (A) of the POO.

Article IV, Section 8 (A-C) of the POC Rules & Regs, does give the POC supervisory-like powers over the IRO in the limited and special situation of reviewing official complaints about the IRO. It states:

> **Section 8. Complaints about the IRO.**
> A. The POC acts like the supervisor over the IRO. See §9415(B), 9416(H), and 9417(D).
> B. The IRO is a fulltime contractual city employee governed by the contract with the City and the Police Oversight Ordinance.
> C. The Police Oversight Commission reviews all complaints against the IRO and may take some actions or may recommend to the Mayor that certain supervisory actions be taken, including dismissing the complaint, conducting their own informal investigation into the complaint,

recommending specific administrative action, requesting additional formal investigation, etc.

Several important points can be observed here. First, the 'POC acts *like* the supervisor over the IRO' solely as to reviewing official complaints against the IRO. POC Rules & Regs, Article IV, Section 8 (A). (emphasis added). It is important that this statement appears under the heading 'Complaints about the IRO,' and thus must be limited to this context. Note that it does not state here, or anywhere else in the POC Rules & Regs, that the POC *is* the supervisor of the IRO. This is further clarified in POC Rules & Regs, Article IV, Section 8 (B) which states: "The IRO is a fulltime contractual city employee governed by the contract with the City and the Police Oversight Ordinance." Note here that Section 8 (B) does not say that the IRO is governed by the POC, but rather by the POO and IRO employment contract. Thirdly, it is made clear in POC Rules & Regs, Article IV, Section 8 (C) that the POC basically only makes recommendations after the review of the complained of conduct of the IRO. This is very similar to the POC's review of Citizen Police Complaints ("CPCs") made against police officers. Just as the POC cannot be said to supervise police officers merely because it reviews CPCs against them, so too the POC cannot be said to supervise the IRO merely because it reviews official complaints against the IRO.

The IRO Contract

Turning to the IRO contract, which was signed by the current IRO and the current CAO on August 20, 2012, we find nothing indicating the IRO is under the thumb of the POC. To the contrary, under ¶ 2 of the contract, we find a long list of duties that on their face are independent of the POC, and in only one instance is the IRO to 'consult' with the POC (¶ 2.A.3.: "Prescribe the duties of the Office staff after consultation with the members of the POC.") and in two other instances to 'assist' the POC (¶ 2.A.4.: "Provide staff assistance to the POC and coordinate and provide Technical [sic] support for all scheduled POC hearings."; ¶ 2.O.: "Assist the POC, the City Council and the Mayor with an evaluation of the City's police oversight system required by the Ordinance.") . True, the list is not meant to be exhaustive, but all other duties appear to be quite independent of the POC. The fact that the IRO is an employee of the City whose contract is signed by the CAO, unlike the POC or any of its members, and the fact that the terms of the contract are much more consistent with IRO independence rather than POC dominance, are a strong indication in favor of the separateness and independence of the IRO *vis-à-vis* the POC.

Application of the Results

So how does this work practically? An analogy is appropriate: imagine two autonomous people, A and B, who basically have the same goals but a single car to get them to that goal. To get to their goal, sometimes A drives and B is a passenger, and other times, B is driving and A is passenger. The passenger can make friendly suggestions as to whether to turn left or right, to slow down or speed up, etc., but the driver decides. Only few important examples will be cited because a lengthy and comprehensive list of such instances would be unwieldy.

As to the investigation of ("CPCs") and the supervision of the IR Office, the IRO drives the car.

> § 9-4-1-6 INDEPENDENT REVIEW OFFICE.
> ...(D) The IRO will report directly to the POC and act as Lead Investigator and Manager of the Office; will supervise all investigations of citizen complaints against police officers, will audit all investigations of complaints and/or police shootings, will recommend and participate in mediation of certain complaints, and will supervise all Independent Review Office staff.

The IRO be given extreme deference in conducting and reaching conclusions in the investigation of CPCs, and to the IRO's interpretation of APD SOPs. What kind of deference? POO and the POC Rules & Regs do not say, but an appropriate level of deference can be found in the courts' deference paid to administrative bodies. For example, unless the POC by majority vote finds an abuse of discretion by the IRO, the POC should generally approve the IRO's public record letter. The deference, of course, ends if a citizen appeals the IRO's findings.

The Albuquerque Police Officers Association Contract of 2008 ("APOA Contract") is also instructive on the role of the IRO in the investigations of CPCs. ¶ 20.1.10 of the APOA Contract makes it clear that IRO is in charge of "administrative investigations" and that the POC plays a subservient role and has access to less information than the IRO. This makes sense since the members of the POC are not required to be trained investigators. *See also* § 9-4-1-5 (B & D) (POC oversees investigations by reviewing the work of IRO and does not conduct investigations itself.)

As to mediation of CPCs, the IRO drives the car.

> § 9-4-1-6 INDEPENDENT REVIEW OFFICE.

... (C) (3) That at the discretion of the IRO an impartial system of mediation may be considered appropriate for certain complaints. If all parties involved reach an agreement, the mediation is considered successful and no investigation will occur.

Here again the IRO is recognized to have discretion, this time in regards to mediating citizen police complaints.

As to appeals to the POC, the POC drives the car. § 9-4-1-9 (A) makes clear that if the findings of the IRO are timely appealed, the POC is empowered to modify or change the findings of the IRO. It states:

§ 9-4-1-9 APPEALS.

(A) ... Any person who has filed a citizen complaint and who is dissatisfied with the findings of the IRO may appeal that decision to the POC within ten business days of receipt of the public record letter. The POC may upon appeal modify or change the findings and/or recommendations of the IRO and may make further recommendations to the Chief regarding the findings and/or recommendations and any discipline imposed by the Chief or proposed by the Chief. ... (emphasis added)

It is important to note that nowhere else in the POO is the POC empowered to modify or change the work of the IRO.

As stated before, the above examples are not meant to exhaustive. The POC and the IRO need to work together harmoniously, each within its proper domain, to achieve their common goal of effective, fair and transparent police oversight. The POC and IRO best serve the public by resolving conflicts that may arise by informal means in a spirit of compromise.

CITY of ALBUQUERQUE
SIXTEENTH COUNCIL

COUNCIL BILL NO. O-04-14 ENACTMENT NO. _____

SPONSORED BY: Brad Winter

ORDINANCE

AMENDING CHAPTER 9, ARTICLE 4, PART 1 ROA 1994, THE POLICE OVERSIGHT ORDINANCE; INCREASING THE NUMBER OF COMMISSIONERS TO NINE; INCREASING THE REPRESENTATION OF COMMISSIONERS TO INCLUDE A REPRESENTATIVE FROM EACH CITY COUNCIL DISTRICT; CHANGING THE MINIMUM QUALIFICATIONS OF COMMISSIONERS; CLARIFYING PROCEDURES FOR FINDINGS ON INVESTIGATIONS; CHANGING THE TERM OF THE INDEPENDENT REVIEW OFFICER; CREATING A HEARING PROCESS FOR NON-CONCURRENCE ISSUES; AND AMENDING THE APPEAL PROCESS.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. Section 9-4-1-4 ROA 1994 is amended as follows:

" There is hereby created a Police Oversight Commission (POC) to provide oversight of the Albuquerque Police Department and oversee all citizen complaints as follows:

(A) The POC shall be composed of nine members who broadly represent the diversity of this community, and who reside within the City of Albuquerque. There shall be one member of the Police Oversight Commission representing each City Council District. This policy shall be implemented as vacancies occur subsequent to the adoption of this ordinance with the exception of Commissioners currently serving on the POC who may be reappointed for a second term by the Mayor regardless of the Council District they represent.

(B) The following are the minimum qualifications for members of the Police Oversight Commission:

[+Bracketed/Underscored Material+] - New
[-~~Bracketed/Strikethrough Material~~-] - Deletion

(1) Have not been employed by law enforcement for one year prior to appointment; and

(2) Problem solving and conflict resolution skills; and

(3) Attend a yearly four-hour civil rights training session to be conducted by a civil rights attorney or advocacy group; and

(4) A willingness to commit the necessary time each month for POC hearings and a commitment to prepare and read all materials distributed prior to the monthly POC meetings; and

(5) Participate in a minimum of two ride-a-longs every year with APD officers; and

(6) Attend a yearly Firearms Training Simulator (FATS) training at the APD Police Academy.

(C) When a vacancy on the POC occurs, the Councillor representing the District in which the vacating member of the POC resides, or another Councillor representing another District which is unrepresented on the POC, shall nominate two members to the POC who reside in his or her respective Council District. The Mayor shall then appoint one of these recommended members to the POC with the advice and consent of the Council.

(D) The terms of the members of the POC shall be staggered so that no more than five of the members are eligible for reappointment or replacement each year.

(E) The appointment of any member of the POC who has been absent and not excused from three consecutive regular or special meetings shall automatically expire effective on the date the fact of such absence is reported by the Commission to the City Clerk. The City Clerk shall notify any member whose appointment has automatically terminated and report to the City Council that a vacancy exists on said Commission and that an appointment should be made for the length of the unexpired term.

(F) That the POC shall elect one of its members as the Chairperson and one as Vice-Chairperson, who shall each hold office for one year and until their successors are elected. No officer shall be eligible to succeed himself or herself in the same office. Officers shall be elected in the month of March of each calendar year.

[+Bracketed/Underscored Material+] - New
[-~~Bracketed/Strikethrough Material~~-] - Deletion

(G) The POC may appoint such subcommittees as are deemed necessary or desirable for the purposes of §§ 9-4-1-1 through 9-4-1-14, provided that, membership on such subcommittees shall be limited to the Commission members.

(H) That the POC and its investigative arm, the IRO, shall be housed in a facility that is separate from any police presence and is located outside of the Albuquerque/Bernalillo Government Center, the Police Department and/or all of the police substations.

(I) That the City Council and the Mayor's Office shall jointly provide staff assistance at all regularly scheduled meetings and at special meetings held pursuant to signed petitions. All other staff support shall be provided by the IRO and/or the Independent Review Office staff.

§ 9-4-1-5 POWERS AND DUTIES OF THE COMMISSION.

The Police Oversight Commission shall have the following powers and duties:

(A) To promote a spirit of accountability and communication between the citizens and the Albuquerque Police Department while improving community relations and enhancing public confidence.

(B) To oversee the full investigation and/or mediation of all citizen complaints; audit and monitor all investigations and/or police shootings under investigation by APD's Internal Affairs; however, the POC will not investigate any complaints other than those filed by citizens. All complaints filed by police officers will be investigated by Internal Affairs.

(C) To gain the cooperation of APD and solicit public input by holding regularly scheduled meetings.

(D) To review all work of the IRO with respect to quality, thoroughness, and impartiality of investigations.

(E) Submit a quarterly report to the Mayor and City Council according to § 9-4-1-10 herein.

(F) To submit all findings to the Chief of Police. The Chief will have final disciplinary authority.

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

(G) To engage in a long-term planning process through which it identifies major problems and establishes a program of policy suggestions and studies each year.

(H) To conduct regularly scheduled public meetings with a prepared agenda that is distributed in advance to the Mayor, City Council, Police Chief, and City Attorney, and that complies with the New Mexico Open Meetings Law. Each POC meeting will begin with public comments and only the regularly scheduled monthly meetings and special meetings held pursuant to submission of petitions will be televised live on the appropriate government access channel. All other meetings of the POC will comply with the Open Meetings Law and shall be videotaped and aired on the appropriate government access channel; however, there is no requirement for providing live television coverage.

(I) To recommend to the Mayor and City Council during the city's budget process, their proposed budget for provision of such staff as is necessary to carry out the powers and duties under §§ 9-4-1-1 through 9-4-1-14, including the funding for the Independent Review Office, staff, and all necessary operating expenses. The Mayor shall propose the annual budget to the City Council in the annual budget message.

(J) To recommend three candidates to the Mayor for consideration as the Independent Review Officer (IRO), and oversee the continuing performance of this individual once selected by the City Council.

§ 9-4-1-6 INDEPENDENT REVIEW OFFICE.

(A) The Independent Review Office is hereby established and shall be directed by an Independent Review Officer (IRO).

(B) The IRO shall be given autonomy and shall perform all duties under the direction of the POC. There will be no attorney-client privilege between the IRO and the city.

(C) The Independent Review Office will receive all citizen complaints and claims directed against the Albuquerque Police Department and any of its officers. The IRO will review such citizen complaints and assign them for investigation to either the Albuquerque Police Department for an internal administrative investigation or to an independent investigator. The IRO will

[+Bracketed/Underscored Material+] - New
[-~~Bracketed/Strikethrough Material~~-] - Deletion

oversee, monitor and review all such investigations and make findings for each. All findings relating to citizen complaints and police shootings will be forwarded to the POC. The IRO may review completed IA cases and discuss those cases with the Chief or his designee. In any instance, the Chief of Police will have the sole authority for discipline. For all investigations, the IRO will make recommendations and give advice regarding Departmental policies and procedures to the POC, City Council, and the Mayor as the IRO deems advisable, provided as follows:

(1) That investigation of all citizen complaints filed with the Independent Review Office shall begin immediately after complaints are filed and proceed as expeditiously as possible; and

(2) That all citizen complaints filed with other offices within the city authorized to accept citizen complaints, including the Police Department, shall be referred to the IRO for investigation; and

(3) That at the discretion of the IRO an impartial system of mediation may be considered appropriate for certain complaints. If all parties involved reach an agreement, the mediation is considered successful and no investigation will occur; and

(4) To monitor all claims of excessive force and police shootings. No APD related settlements in excess of $25,000 shall be made for claims without the knowledge of the IRO. The IRO shall be an ex-officio member of the Claims Review Board; and

(5) That all investigations shall be thorough, objective, fair, impartial, and free from political influence; and

(6) That all information necessary to satisfy the POC's quarterly reporting requirements in § 9-4-1-10 be maintained and compiled; and

(7) The process for finalizing findings on police shooting cases shall be the same as the process for finalizing findings on citizen police complaints.

(D) The IRO shall have access to any Police Department information or documents that are relevant to a citizen's complaint, or to an issue which is ongoing at the Independent Review Office or the POC; and

(E) The IRO may make recommendations to the POC and APD on specific training, changes in policy or duty manuals. APD will respond, in

[+Bracketed/Underscored Material+] - New
[-~~Bracketed/Strikethrough Material~~-] - Deletion

writing, to all recommendations from the IRO or POC within 60 days. Follow up and monitor all recommendations to verify their adoption and implementation; and

(F) The Independent Review Office shall provide staff assistance for the POC and coordinate and provide technical support for all scheduled Police Oversight Commission meetings, publicize all findings and reports, recommendations, and/or suggested policy changes; and

(G) Play an active public role in the community, and whenever possible, provide appropriate outreach to the community. Publicize the citizen complaint process, and identify locations within the community that are suitable for citizens to file complaints in a non-police environment; and

(H) Neither the City Council nor any of its members, nor the Mayor shall in any manner dictate the appointment or removal of any such employee of the Independent Review Office.

§ 9-4-1-7 INDEPENDENT REVIEW OFFICER.

(A) Qualifications for the position of Independent Review Officer shall be determined by the Police Oversight Commission. The qualifications minimally include the requirement of a law degree and experience in criminal investigations.

(B) The position of IRO will be a full-time contractual city employee to be selected as follows:

(1) A candidate search will be undertaken by the POC, who will screen, interview, and select three candidates to be considered by the Mayor; and

(2) The Mayor will select one of the three candidates and forward his recommendations to the City Council; and

(3) The City Council may accept or reject the Mayor's nominee.

(4) In the event the City Council rejects the nominee, the Mayor shall submit his second recommendation from the names submitted by the POC, the City Council may accept or reject the Mayor's nominee.

(5) In the event that the City Council rejects the second nominee, the process shall begin with a second candidate search by the POC.

[+Bracketed/Underscored Material+] - New
[-~~Bracketed/Strikethrough Material~~-] - Deletion

(C) The IRO will be provided the necessary professional and/or clerical employees for the Office, and shall prescribe the duties of these staff members after consultation with the members of the POC. Such professional and clerical employees will be classified city employees.

(D) The IRO will report directly to the POC and act as Lead Investigator and Manager of the Office; will supervise all investigations of citizen complaints against police officers, will audit all investigations of complaints and/or police shootings, will recommend and participate in mediation of certain complaints, and will supervise all Independent Review Office staff.

(E) The term of the IRO shall be for two years, commencing immediately upon approval by the City Council. The Mayor, with the approval of the City Council, shall have the option to renew or extend the contract with the IRO for additional two-year periods. Negotiations to renew or extend the contract shall be completed three months prior to the contact expiring. Should the contract not be renewed or extended, the IRO may continue to serve in the same capacity until a new IRO is selected and approved by the City Council. If the IRO or the Mayor chooses not to renew or extend the contract, the POC shall be immediately notified. The POC will then immediately begin a candidate search, as described in §9-4-1-7 (B)(1). If for some unforeseen reason there is a period of time during which there is no IRO, the Mayor may appoint a temporary IRO, with the consent and approval of the City Council. A temporary IRO shall only serve in that capacity for a period not to exceed 6 months.

§ 9-4-1-8 CITIZEN COMPLAINT PROCEDURES.

(A) Any person claiming to be aggrieved by actions of the Police may file a written complaint against the department or any of its officers. The POC shall submit rules and regulations governing citizen complaint procedures to the Mayor and City Council for approval, including rules and regulations relative to time limits, notice and other measures to insure impartial review of citizens' complaints against members of the police department.

(B) The Mayor shall designate civilian city staff to receive written citizen complaints at various locations throughout the city. The Police Department may also receive written complaints. Such complaints shall be filed with the

[+Bracketed/Underscored Material+] - New
[-~~Bracketed/Strikethrough Material~~-] - Deletion

civilian city staff no later than 90 days after the action complained of. The party who receives the complaint shall transmit all citizen complaints for further investigation to the IRO. If a citizen complaint is determined to not merit further investigation, the complainant shall be notified of that determination by certified mail.

(C) After the investigation is completed, the IRO and the Chief, or his designee, shall consider the investigation and all other relevant and material evidence offered by the person investigated. The IRO and Chief may confer and discuss the investigation and findings. The IRO shall then submit his findings and public record letter to the POC for review and approval. The public record letter to the citizen will only be sent after approval by the POC.

(D) If the Chief, or his designee, and the IRO disagree on the IRO's findings, the POC will receive the complaint to review at the next regularly scheduled meeting. The POC will treat the complaint as a Non-Concurrence Issue and after conducting a hearing can keep, modify, or change the original findings and/or recommendations of the IRO. If the POC/IRO and Chief do not agree on the findings of any citizen complaint, the Chief Administrative Officer will review the investigation and render a final decision, acting with the same authority and power as described in §9-4-1-9(B).

(E) When the Chief, or his designee, and the IRO agree on the findings of the POC, these findings will be considered final and cannot be changed by the Chief, or his designee, or the IRO at any time without first notifying the POC, the IRO, the complainant, and the individual(s) against whom the complaint was filed, by certified mail. Upon such notification the POC will place the matter on its agenda for a regularly scheduled meeting and decide whether the findings should be changed because (1) of newly discovered evidence which by due diligence could not have been known at the time of the original finding, or (2) the original finding was based on fraud, misrepresentation, or other misconduct.

(F) The findings of the POC/IRO shall be placed with the Chief's findings on the Internal Affairs Unit Disciplinary Status Sheet. The form will be filed in the CPC complaint file and the officer's Retention File.

(G) The Chief shall take whatever action is necessary,

[+Bracketed/Underscored Material+] - New
[-~~Bracketed/Strikethrough Material~~-] - Deletion

including disciplinary action, to complete the disposition of the complaint. Written notice, by certified mail, of such disposition shall be given to the complainant and to the individual against whom the complaint was filed.

§ 9-4-1-9 APPEALS.

(A) A summary and findings of the investigation conducted pursuant to the direction of the IRO shall be forwarded to the complainant and to the POC. A copy of the IRO's public record letter shall also be forwarded to the complainant and to the POC. Any person who has filed a citizen complaint and who is dissatisfied with the findings of the IRO may appeal that decision to the POC within ten business days of receipt of the public record letter. The POC may upon appeal modify or change the findings and/or recommendations of the IRO and may make further recommendations to the Chief regarding the findings and/or recommendations and any discipline imposed by the Chief or proposed by the Chief. Within 20 days of receipt of the appellate decision of the POC, the Chief shall notify the POC and the original citizen complainant of his decision in this matter in writing, by certified mail.

(B) If any person who has filed a citizen complaint under §§ 9-4-1-1 through 9-4-1-14 is not satisfied with the final decision of the Chief of Police on any matter relating to his complaint, he may request that the Chief Administrative Officer review the complaint, the findings of the IRO and POC and the action of the Chief of Police by requesting such review in writing within ten business days of receipt of the Chief's letter pursuant to § 9-4-1-9 (A). Upon completion of his review, the Chief Administrative Officer shall take any action necessary, including overriding the decision of the Chief of Police regarding disciplinary action, to complete the disposition of the complaint. The Chief Administrative Officer shall notify in writing, by certified mail, the complainant, the individual against whom the complaint was filed, the Chief of Police and the IRO of the results of his review and any action he has taken.

§ 9-4-1-10 REPORTS.

The POC shall be responsible for regularly informing the Mayor, the City Council, and the public by submitting quarterly reports that contain the following types of information:

[+Bracketed/Underscored Material+] - New
[-~~Bracketed/Strikethrough Material~~-] - Deletion

(A) Data relating to the number, kind and status of all complaints received including those complaints sent to mediation;

(B) Discussion of issues of interest undertaken by the POC which may include suggested policy and/or procedural changes, a listing of complaints and allegations by Council District, statistical ethnicity of subject officers, statistical ethnicity of complainants, and updates on prior issues and/or recommendations;

(C) The POC's findings and the Police Chief's issuance of discipline on those findings and the ongoing disciplinary trends of the Police Department;

(D) Information on all public outreach initiatives undertaken by either the POC or the IRO such as speaking engagements, public safety announcements, and/or public information brochures on the oversight process.

(E) The status of the long-term planning process identifying major problems, policy suggestions, and studies as required by Section 9-4-1-5 of this ordinance.

§ 9-4-1-11 EVALUATION.

Contingent upon funding, in the first six months of 2005 and at least every four years thereafter, from adoption of §§ 9-4-1-1 through 9-4-1-14, the City Council shall issue a Request for Proposal for an independent consultant to undertake a complete evaluation and analysis of the entire Police Oversight Process, and recommend any necessary changes or amendments that would appropriately improve the process.

§ 9-4-1-12 SPECIAL MEETINGS.

On the petition of 1,000 or more citizens in the City of Albuquerque filed in the Office of the City Clerk, the Commission shall hold a special meeting for the purpose of responding to the petition and hearing and inquiring into matters identified therein as the concern of the petitioners. Copies of the petition shall be filed by the Commission with the City Clerk. Notice of such meeting shall be given in the same manner as notice is given for other meetings of the Commission and shall comply with the State Open Meetings Law.

§ 9-4-1-13 CONFIDENTIALITY.

[+Bracketed/Underscored Material+] - New
[-~~Bracketed/Strikethrough Material~~-] - Deletion

The hearing process shall be open to the public to the extent legally possible so that it does not conflict with state or federal law. However, upon the opinion of the City Attorney and IRO, some of the details of the investigations of the IRO, or the designated independent investigator, shall become privileged and confidential. The details of investigations should not be open to the public subject to the opinion of the City Attorney and the IRO. Compelled statements given to the IRO, or the designated independent investigator, will not be made public. The IRO may summarize conclusions reached from a compelled statement for the report to the POC and the Chief, and in the public record letter sent to the complainant. Nothing in §§ 9-4-1-1 through 9-4-1-14 shall affect the ability of APD to use a compelled statement in a disciplinary proceeding.

§ 9-4-1-14 MANDATORY COOPERATION AGREEMENT.

The City Council believes that full participation and cooperation of all parties involved is essential to the success of the new police oversight process and its IRO, and that APD hereby agrees and understands that their full cooperation is necessary, hereby agrees to mandate that its officers provide honest and truthful responses to all questions by the IRO or the designated independent investigator. If any officer refuses to answer the questions proposed to him or her by the IRO, or the independent investigator, he or she may be subjected to termination or disciplinary action at the discretion of the Police Chief. Compelled statements given to the IRO or the designated independent investigator, by a police officer will be used only for the IRO's investigation. The actual statement will remain confidential and will not be included in a final report or be forwarded to the POC. The IRO may summarize conclusions reached from a compelled statement for the report to the POC and the Chief, and in the public record letter to the complainant."

Section 2. Severability Clause. If any Section, paragraph, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each Section, paragraph, sentence,

[+Bracketed/Underscored Material+] - New
[-~~Bracketed/Strikethrough Material~~-] - Deletion

clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Section 3. Compilation. Section 1 of this ordinance shall be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico.

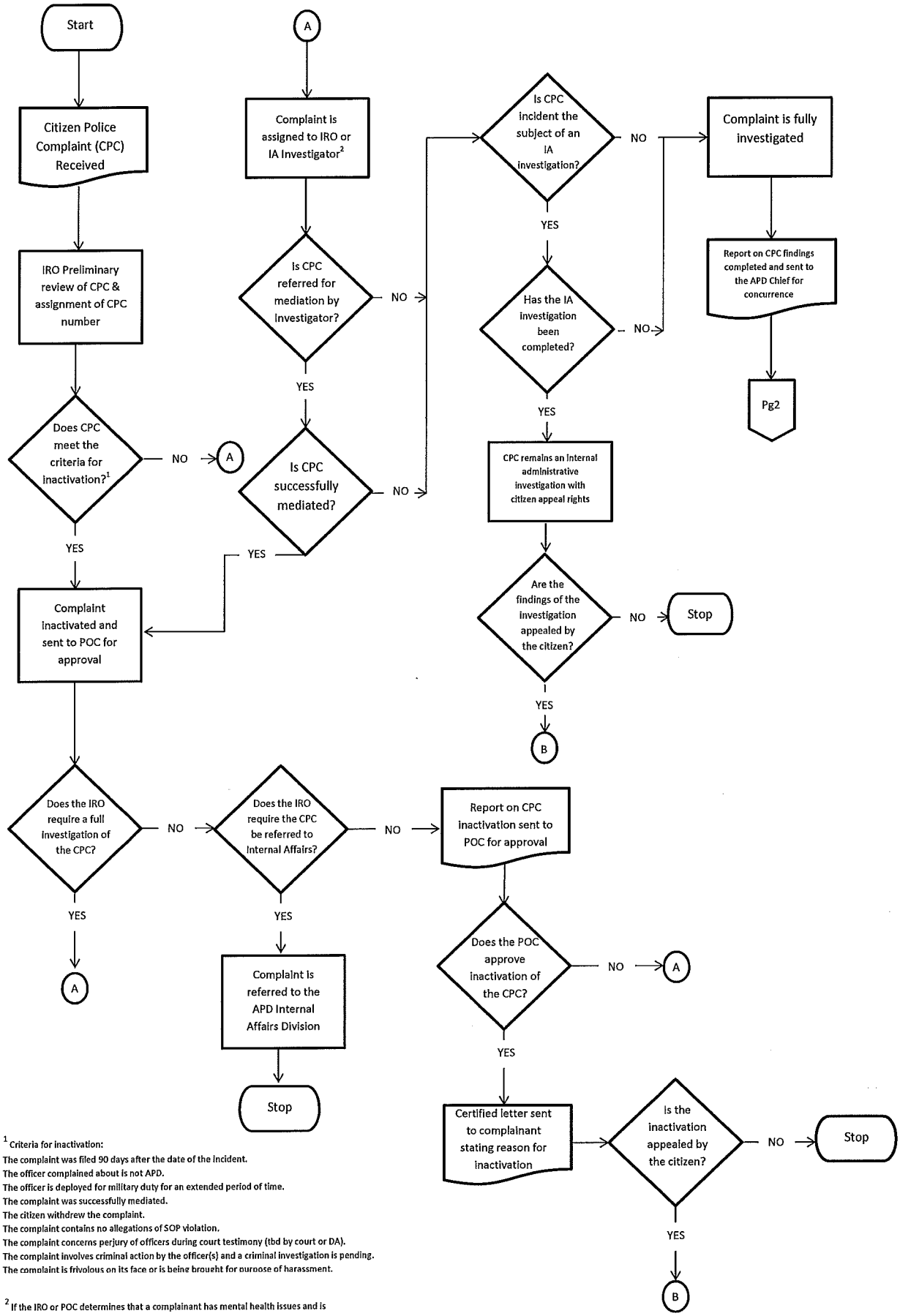
Section 4. Effective Date. This ordinance shall take effect five days after publication by title and general summary.

[+Bracketed/Underscored Material+] - New
[-~~Bracketed/Strikethrough Material~~-] - Deletion

X:\SHARE\Legislation\Sixteen\o-14fin.doc

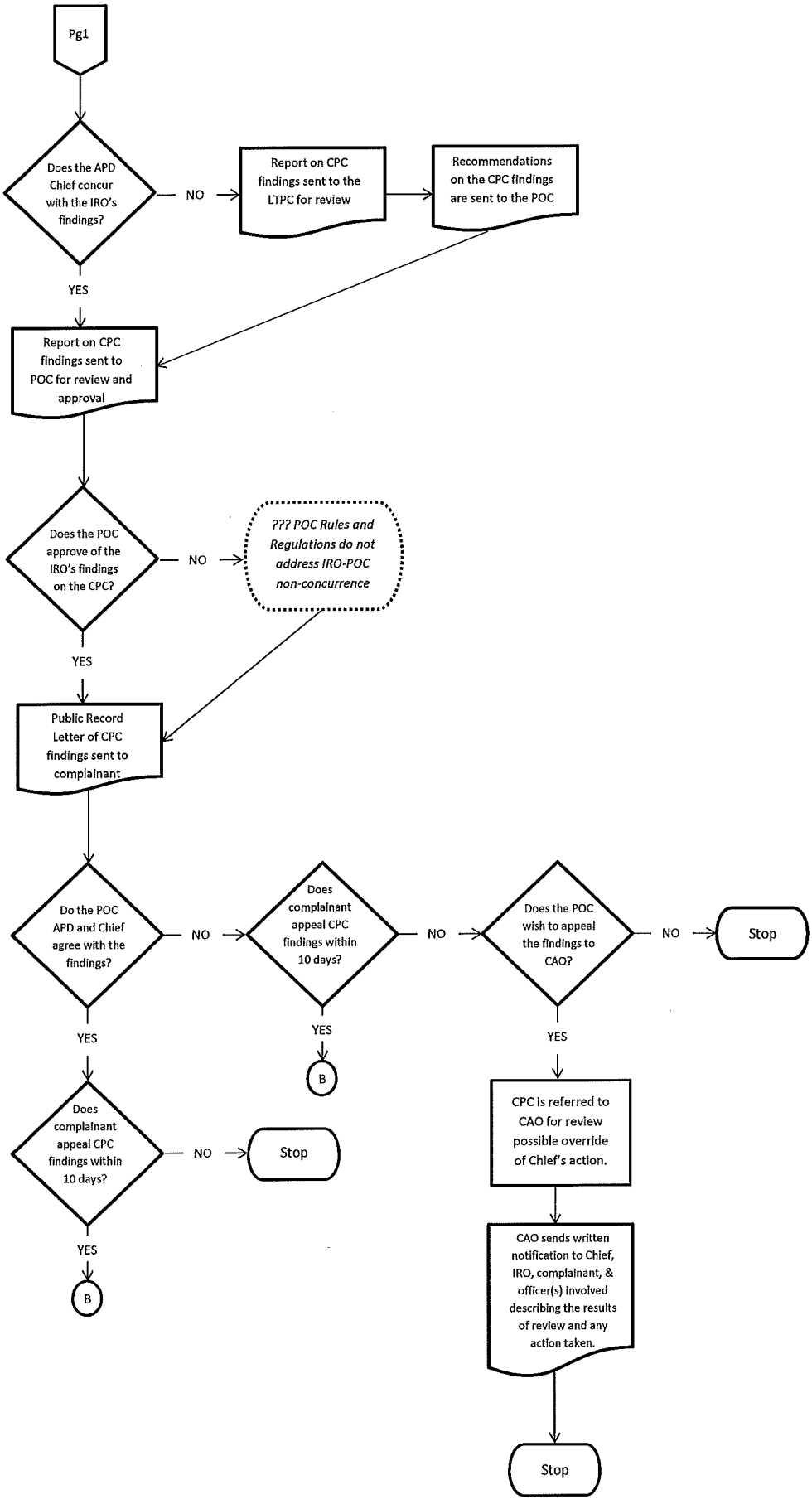
APPENDIX Q:

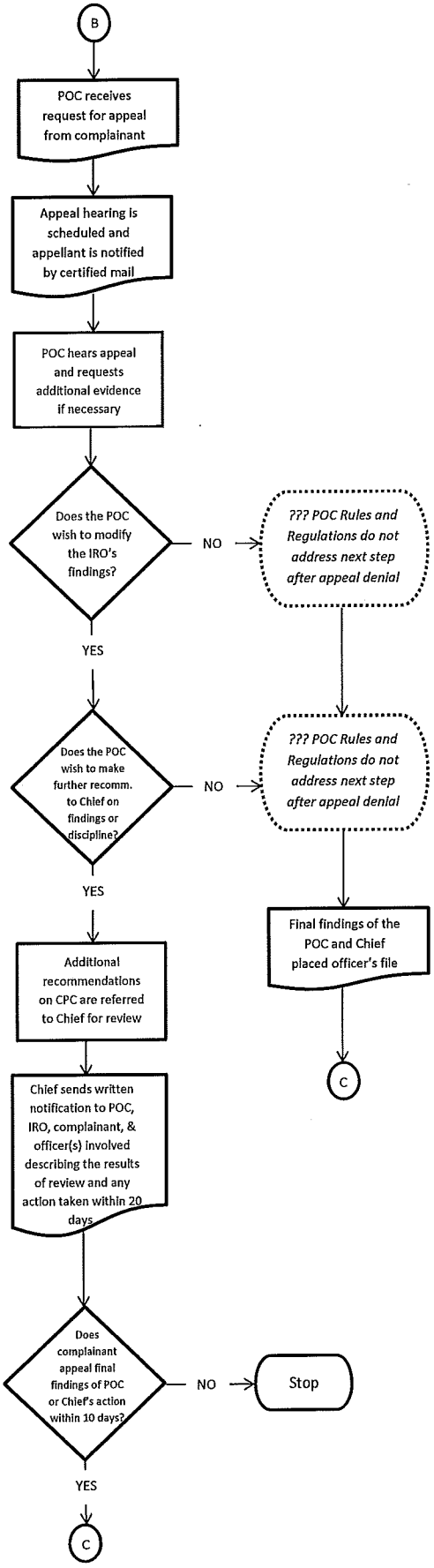
DECISION AND FLOW CHARTS

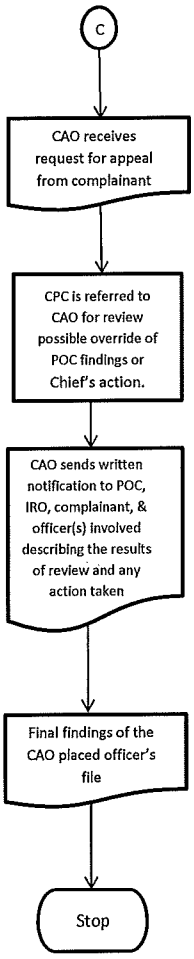


[1] Criteria for inactivation:
The complaint was filed 90 days after the date of the incident.
The officer complained about is not APD.
The officer is deployed for military duty for an extended period of time.
The complaint was successfully mediated.
The citizen withdrew the complaint.
The complaint contains no allegations of SOP violation.
The complaint concerns perjury of officers during court testimony (tbd by court or DA).
The complaint involves criminal action by the officer(s) and a criminal investigation is pending.
The complaint is frivolous on its face or is being brought for purpose of harassment.

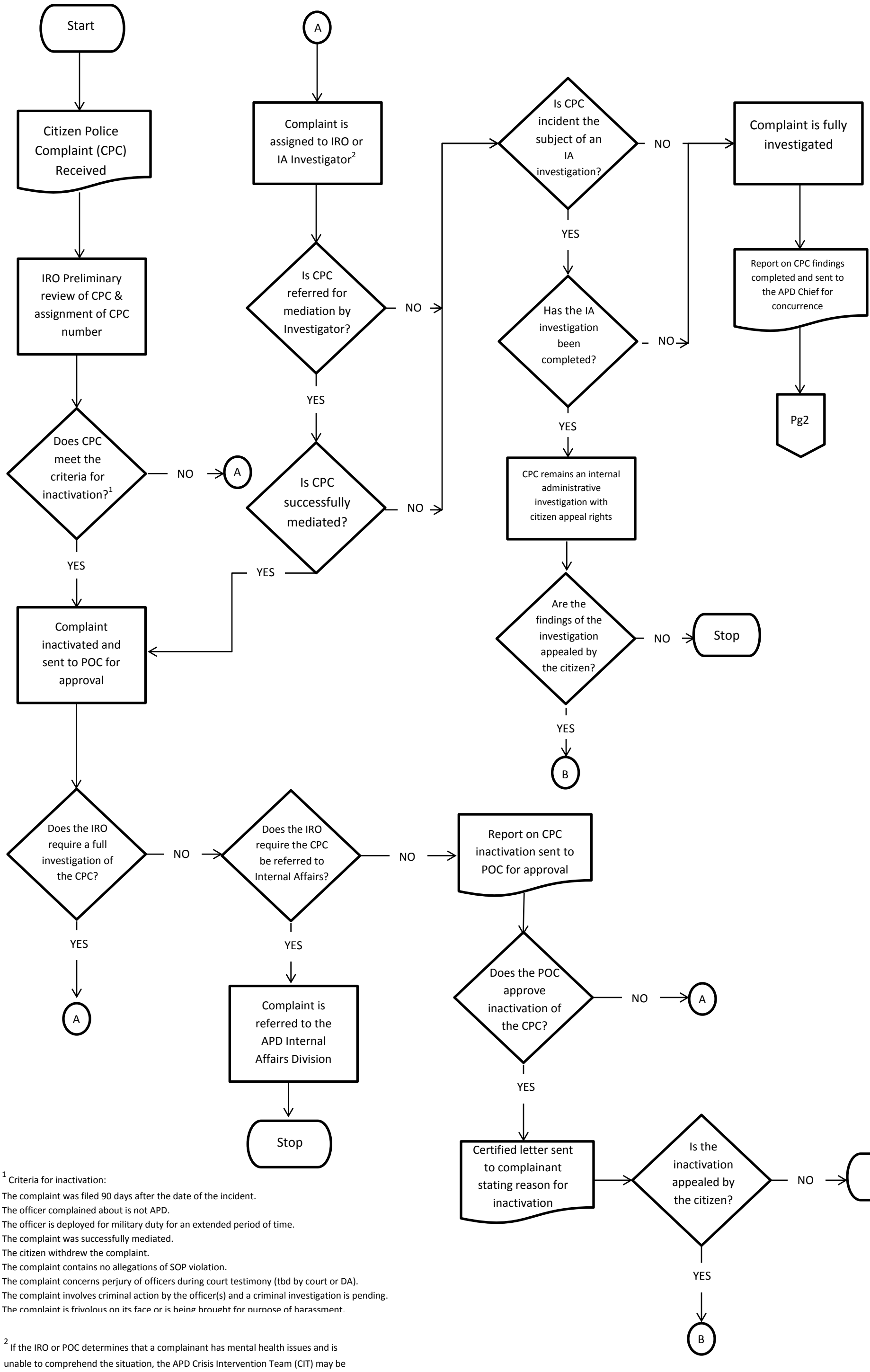
[2] If the IRO or POC determines that a complainant has mental health issues and is unable to comprehend the situation, the APD Crisis Intervention Team (CIT) may be asked to evaluate the complainant prior to the CPC being fully investigated.


Pg1
Does the APD Chief concur with the IRO's findings?
NO
Report on CPC findings sent to the LTPC for review
Recommendations on the CPC findings are sent to the POC
YES
Report on CPC findings sent to POC for review and approval
Does the POC approve of the IRO's findings on the CPC?
NO
??? POC Rules and Regulations do not address IRO-POC non-concurrence
YES
Public Record Letter of CPC findings sent to complainant
Do the POC APD and Chief agree with the findings?
NO
Does complainant appeal CPC findings within 10 days?
NO
Does the POC wish to appeal the findings to CAO?
NO
Stop
YES
YES
YES
B
CPC is referred to CAO for review possible override of Chief's action.
Does complainant appeal CPC findings within 10 days?
NO
Stop
YES
B
CAO sends written notification to Chief, IRO, complainant, & officer(s) involved describing the results of review and any action taken.
Stop


B
POC receives request for appeal from complainant
Appeal hearing is scheduled and appellant is notified by certified mail
POC hears appeal and requests additional evidence if necessary
Does the POC wish to modify the IRO's findings?
NO
??? POC Rules and Regulations do not address next step after appeal denial
YES
Does the POC wish to make further recomm. to Chief on findings or discipline?
NO
??? POC Rules and Regulations do not address next step after appeal denial
YES
Final findings of the POC and Chief placed officer's file
C
Additional recommendations on CPC are referred to Chief for review
Chief sends written notification to POC, IRO, complainant, & officer(s) involved describing the results of review and any action taken within 20 days
Does complainant appeal final findings of POC or Chief's action within 10 days?
NO
Stop
YES
C


C
CAO receives request for appeal from complainant
CPC is referred to CAO for review possible override of POC findings or Chief's action.
CAO sends written notification to POC, IRO, complainant, & officer(s) involved describing the results of review and any action taken
Final findings of the CAO placed officer's file
Stop

CPC Process Version 2- POC Ordinance

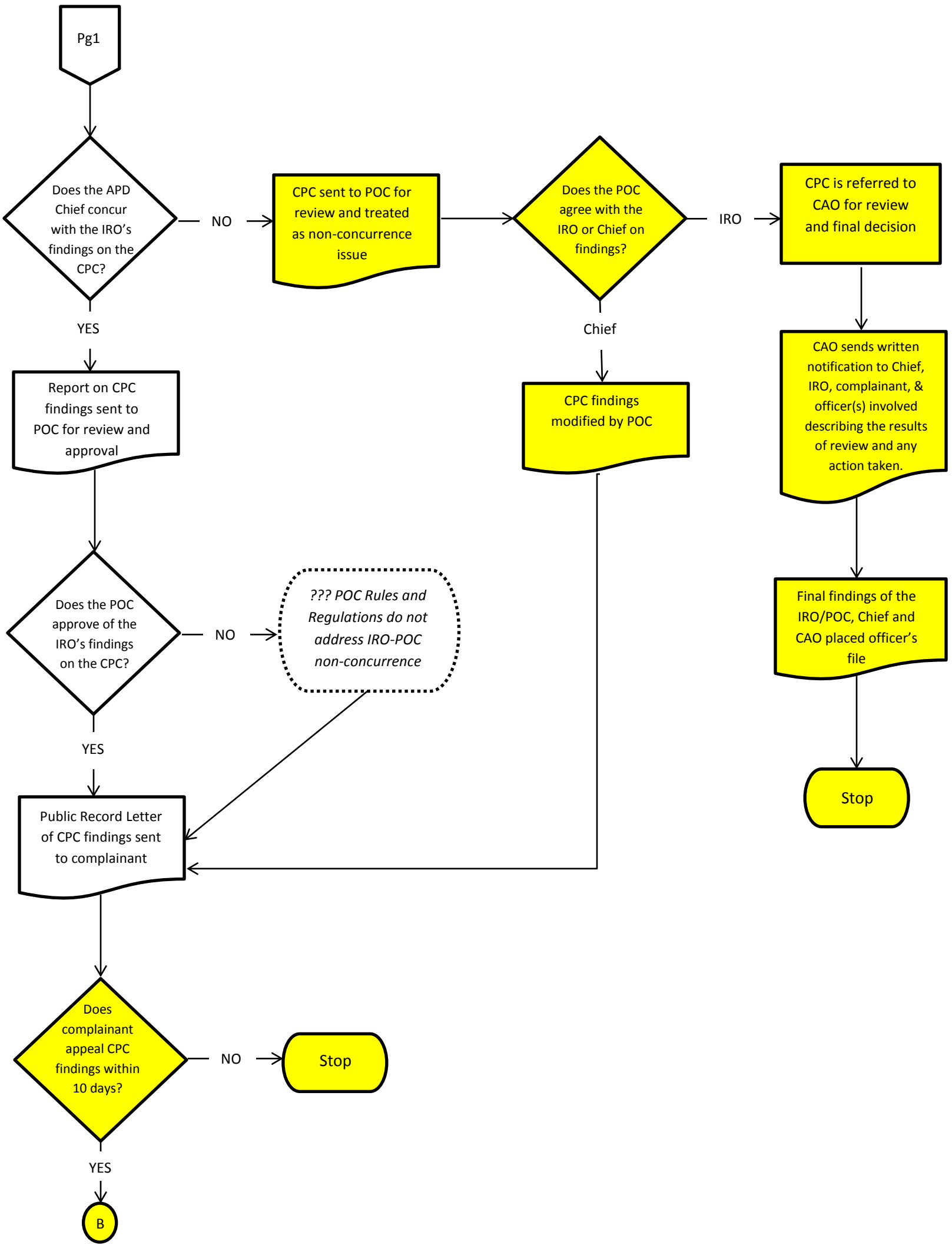


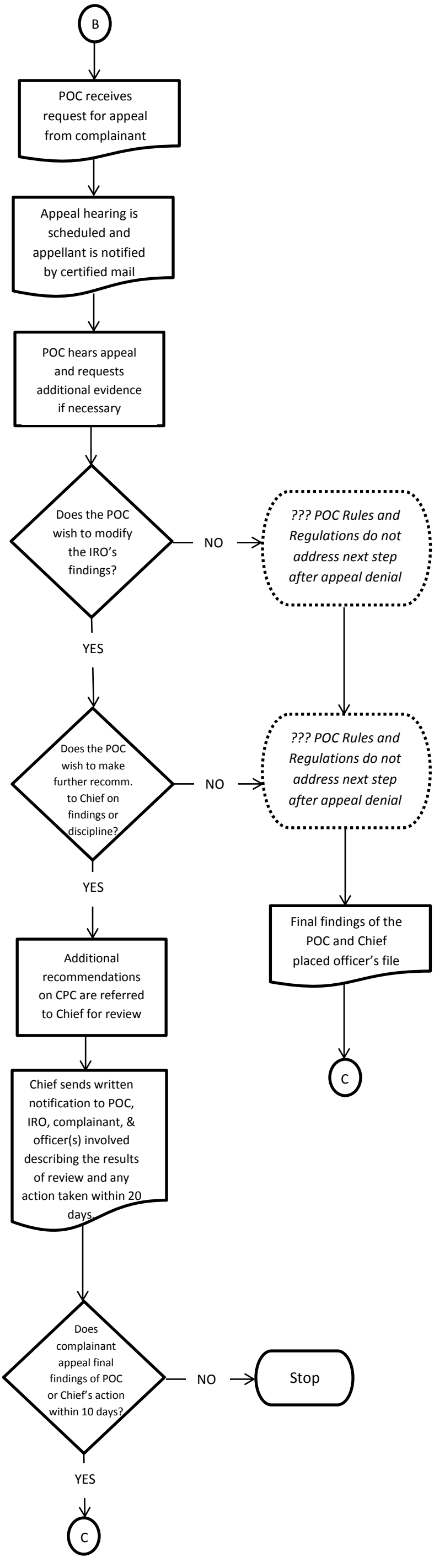
[1] Criteria for inactivation:

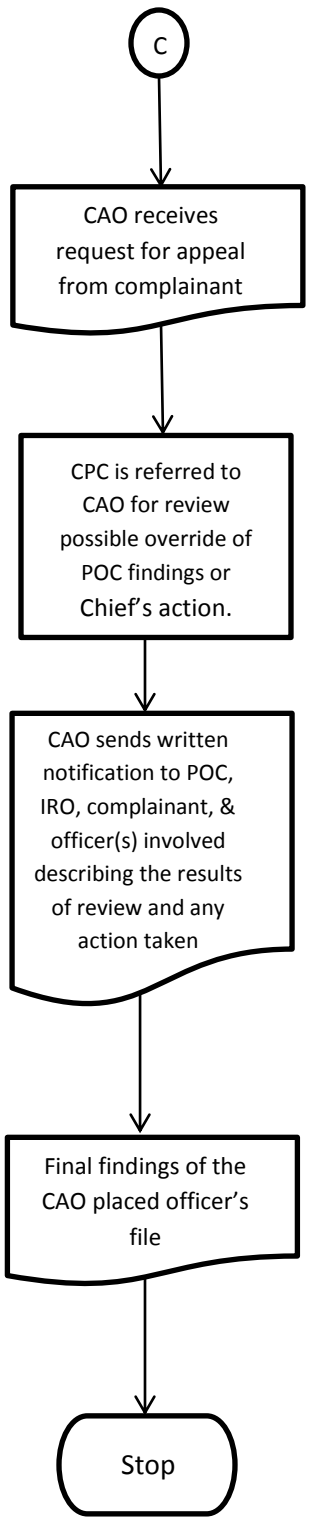
The complaint was filed 90 days after the date of the incident.
The officer complained about is not APD.
The officer is deployed for military duty for an extended period of time.
The complaint was successfully mediated.
The citizen withdrew the complaint.
The complaint contains no allegations of SOP violation.
The complaint concerns perjury of officers during court testimony (tbd by court or DA).
The complaint involves criminal action by the officer(s) and a criminal investigation is pending.
The complaint is frivolous on its face or is being brought for purpose of harassment.

[2] If the IRO or POC determines that a complainant has mental health issues and is unable to comprehend the situation, the APD Crisis Intervention Team (CIT) may be asked to evaluate the complainant prior to the CPC being fully investigated.

CPC Process Version 2- POC Ordinance




B
POC receives request for appeal from complainant
Appeal hearing is scheduled and appellant is notified by certified mail
POC hears appeal and requests additional evidence if necessary
Does the POC wish to modify the IRO's findings?
NO
??? POC Rules and Regulations do not address next step after appeal denial
YES
Does the POC wish to make further recomm. to Chief on findings or discipline?
NO
??? POC Rules and Regulations do not address next step after appeal denial
YES
Additional recommendations on CPC are referred to Chief for review
Final findings of the POC and Chief placed officer's file
C
Chief sends written notification to POC, IRO, complainant, & officer(s) involved describing the results of review and any action taken within 20 days.
Does complainant appeal final findings of POC or Chief's action within 10 days?
NO
Stop
YES
C


C
CAO receives request for appeal from complainant
CPC is referred to CAO for review possible override of POC findings or Chief's action.
CAO sends written notification to POC, IRO, complainant, & officer(s) involved describing the results of review and any action taken
Final findings of the CAO placed officer's file
Stop

CITIZEN POLICE COMPLAINT PROCESS
Independent Review Office of the Police Oversight Commission

Citizen Complaint is received by E-Mail at the IRO, APD Internal Affairs, police sub-station or via US Mail.

Complaint is reviewed by the IRO to determine if the IRO has jurisdiction to investigate the complaint. The complaint is assigned a Citizen Police Complaint Number. If there is jurisdiction, a certified letter is sent to the complainant indicating that the complaint has been assigned for investigation.

INVALID COMPLAINTS

Invalid complaints inactivated**.** The citizen is sent a certified letter after approval by the POC stating the reason for the inactivation.

Mediated Complaints

Complaints that are successfully mediated are also inactivated. A certified letter is sent to the complainant and a copy of that letter is sent to the APD after approval by the POC.

VALID COMPLAINTS

A Valid Complaint is assigned to an IRO investigator or an APD Internal Affairs Investigator for investigation. If the complaint is successfully mediated it is inactivated by the IRO and the POC and no further investigation is conducted. Non mediated complaints are fully investigated.

FULLY INVESTGATED COMPLAINTS

The Investigator gathers evidence, interviews the complainant, the witnesses, and the officers involved. The Investigator reviews relevant SOP's , or applicable rules or regulations and the writes an investigative report documenting the investigation and suggests findings and conclusions regarding the alleged violations of Standard Operating Procedure. The report is forwarded to the Independent Review Officer for approval and the writing of a draft public record letter. This process can take up to 120 calendar days.

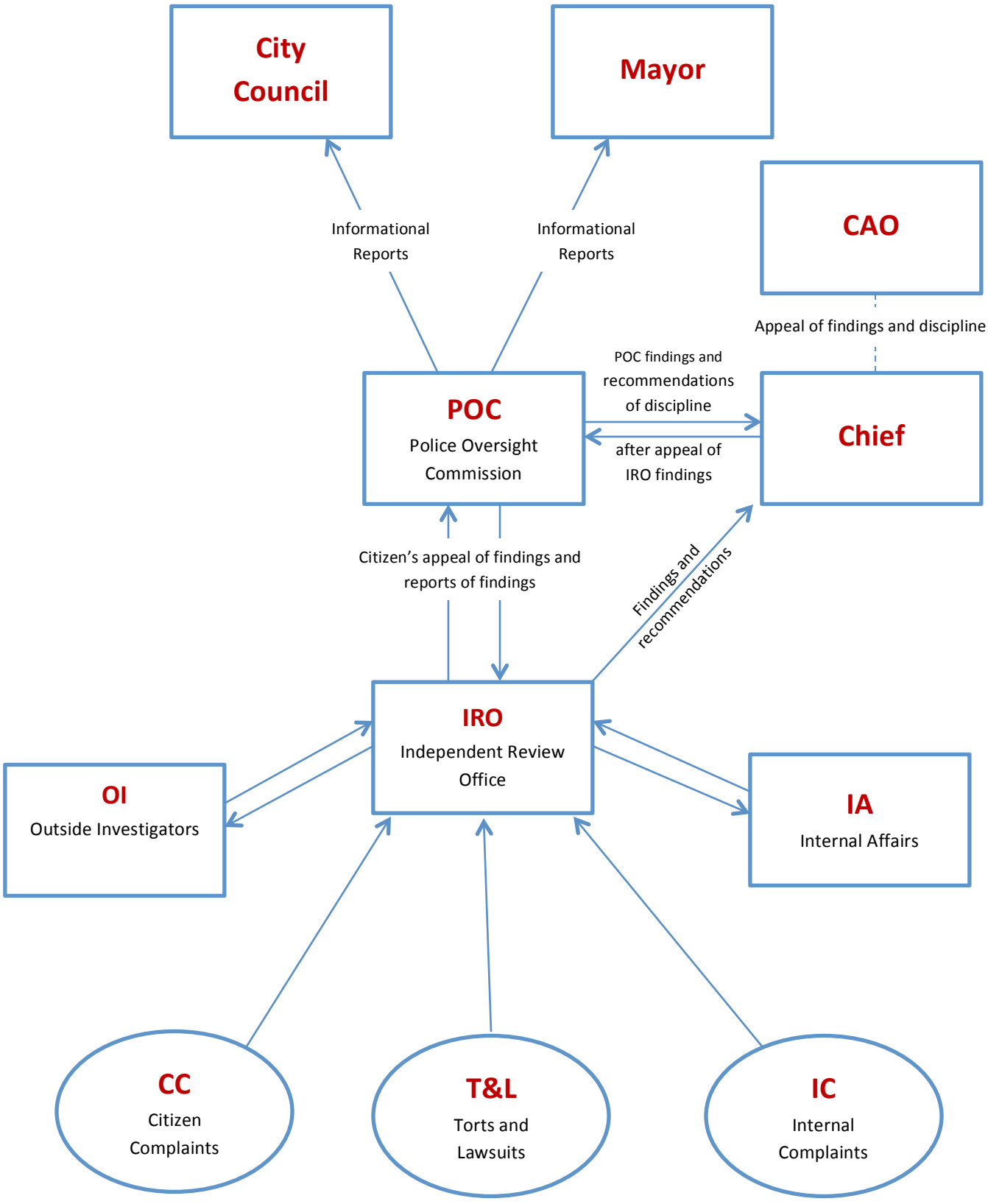
Completed investigative file with the draft IRO Findings letter is sent through the Albuquerque Police Department Chain of Command for review. Once the Chief of Police reviews and agrees with the IRO's findings, the file is sent back to the IRO to forward to the POC for approval.

The IRO's Findings Letter is sent to the Complainant via certified mail. The letter tells the citizen that if they disagree with the findings that they can appeal the decision to the POC .

CITIZEN APPEAL

If the citizen appeals the Findings of the IRO and POC, the appeal is scheduled for public hearing

Police Oversight Model



May be filed at:
- *Libraries
- *Community Centers
- *IRO Office
- *Etc.

From:
- *Legal Department
- *Risk Management Division

From:
- *Chief
- *Officers
- *Incident Reports
- *Etc.

APPENDIX R:

PRIOR REPORT SUMMARIES

Walker-Luna 1997 Report Summary

Background

Commissioned by the 1997 City of Albuquerque City Council to analyze the oversight policies and procedures of the Albuquerque Police Department. The report was prompted as a result of the following issues: fatal shootings, extremely high annual payments for tort claims involving officers, ineffective citizen complaint system, and high levels of tension between APD and the community. Luna and Walker focused the research on the tripartite oversight system, which were identified as the Independent Counsel, the Public Safety Board, Internal Affairs, and the City Attorney/Risk Management

Synopsis

- Research conducted found the crime rate is similar to other municipalities/cities, which negates the argument that the crime rate in ABQ is abnormally high
- Comparative analysis of similar cities exemplified an unusual and unacceptable high rate of fatal shootings by APD
- Positive relationship between use of deadly force and the operating policies and procedures
- Lack of adequate mental health provisions offered by by the City of Albuquerque and Bernalillo County
- High level of cooperation from Police Chief Joseph M. Polisar

Primary Functions of Oversight

Independent Counsel

- Provides citizen oversight to complaint process
- Impartial attorney not employed by ABQ

Problems Identified

Independent Counsel

- Not utilizing full authority to review polices/procedures
- Does not play public role, which undermines positive contributions

Public Safety Advisory Board

- Failed to effectively utilize authority
- Dysfunctional

APD Internal Affairs

- Failed to adequately publicize complaint process
- Inconsistent with quality of investigations
- Inconsistent discipline procedures

City Attorney & Risk Management

- Failed to exercise needed oversight of APD
- Does not provide feedback to APD command officers about serious problems/issues

City Council & Mayor

- Failed to adequately address problems associated with APD

Recommendations

Independent Counsel

- Utilize full authority
- Play more active role to inform the public about oversight process and receive input

Public Safety Advisory Board

- Utilize authority to conduct studies and make recommendations
- Give direct authority over Independent Counsel to increase visibility and accountability

APD Internal Affairs

- Undertake outreach program to publicize complaint process
- Synthesize consistent discipline process

City Attorney & Risk Management

- Develop formal program to reduce tort claim payments
- Provide feedback to APD

City Council & Mayor

- Take a more active role to resolve issues
- Examine provisions of mental health services, and policies within APD regarding the mentally ill

• Has authority to review policies and procedures **Public Safety Advisory Board** • Comprised of eleven members appointed by Mayor • Provides citizen oversight of policies and procedures • Authority to conduct studies, receive information, and make recommendations **APD Internal Affairs** • Investigates citizen police and internal complaints		

MGT 2006 Report Summary		
Background	**Problems Identified**	**Recommendations**
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 was 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. In mid-January and again in mid-February 2006, the consultant team spent week on-site collecting information and conducting interviews with stakeholders. 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. The team also 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.	**Police Oversight Process** The public letter record sent to a complainant advising him or her of the findings and resolution of their complaint contains the technical/legal terms without any explanation of the meaning of the terms. The increased use of mediation as a way to resolve police complaints in Albuquerque is commendable, but the percent of sustained cases has changed very little over the past four years. While the increase in the use of mediation is commendable, mediations could be increased and should be completed in less time The citizen's complaint form could be improved with some changes in its format The current handling of unsigned complaints is not consistent with the spirit of the ordinance. Albuquerque's citizen police complaint process offers more opportunity for citizens to appeal than other oversight systems the consultant team reviewed. The City of Albuquerque's police oversight process ensures police officers' constitutional rights against compulsory self-incrimination are protected, but which is not explicitly referred.	**Police Oversight Process** 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. Enhance outreach efforts to complainants and potential complainants to encourage the use of mediation. Include "successfully mediated" as a complaint disposition category. Develop a SOP in collaboration with IA that establishes a process and criteria for mediation. 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. 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. Extend the deadline for citizens to file appeals from ten business days to 30 calendar days. Policies and procedures used by the City of Albuquerque in its police oversight process should be consistent with the Garrity decision in both form and function.

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."	**Police Oversight Commission** 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. Although the ordinance requires annual training, training is not tracked to ensure all requirements have been met on an annual basis. **Independent Review Officer** 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. 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 IRO has not established formal criteria for the referral of CPCs to IA. The IRO's efforts to play an active role in the community and provide outreach are limited.	**Police Oversight Commission** Amend the Police Oversight Ordinance to include any language that was unintentionally omitted during the amendment process. Remove term limits on POC members. Create an orientation program for new members. Monitor and track POC member attendance at all training and ride-along events to ensure compliance with the ordinance. 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. **Independent Review Officer** Hire additional investigators. Assign all CPCs to the IRO to investigate. Establish criteria for CPCs that will be handled by the IRO and those that will be referred to IA. 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.

		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. Conduct complainant surveys on an on-going basis, but seek ways to increase the number of responses and increase the depth of analysis.
	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.	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 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.	Revise the ordinance to extend the IRO contract time-period to more than a two-year contract as currently required.
	APD Internal Affairs Historically, the IA lieutenants have rotated out of IA after a short period of time in the assignment. Frequently, investigator positions, which are sergeants, are filled with newly promoted sergeants. There is a lack of consistency with how counseling results based on informal complaints are entered on employee cards.	**APD Internal Affairs** Develop criteria that establish the minimum and maximum length of time the IA commander may work in that assignment. Develop criteria for sergeants selected to work in IA that requires experience as a supervisor. Document informal complaints in the EWS. 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.
	IA has experienced a significant increase in investigations during the past four years resulting in what is described as an unacceptable caseload for investigators.	Reexamine the need for additional investigators in IA. Consider limiting IA's investigations to "I"s only.
	Internal Affairs quarterly and annual reports to the city council provide the opportunity for additional analysis and education for the council and other readers.	Change the quarterly and annual report format to address all IA reporting requirements as delineated in SOPs.
	A process for investigating officers the rank of captain and above is in place but not articulated in policy.	Ensure the process for investigating captains and above is included in the department's SOPs.
	The current EWS is antiquated and does not produce reports or data easily retrievable for trend analysis.	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.
	The APD's EWS review panel as described in SOP 3-49-2, has not been used as intended.	Include the tracking of resisting arrest and assault on police officer data in the EWS. Review the function of the EWS review panel (SOP 3-49) to ensure it is being utilized as required by the SOP.
	The use of a set number entries or "hits" in the EWS as a threshold for intervention requires reconsideration.	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.

	Other APD Accountability Mechanisms	**Other APD Accountability Mechanisms**
	Use of force reporting is well below 100 percent.	Assign the APD's Inspections Unit to audit UOF reporting.
	While several experienced supervisors have requested a copy of the reference guide, it was not distributed to all supervisors.	Issue the "APD Sergeant Reference Guide" in training for all lieutenants and sergeants. 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.
	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.	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.
	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.	Assign the Inspections Unit to conduct an audit of officers' SOP manuals. Distribute SOPs electronically to all APD staff.
	The training division and officers and supervisors interviewed have a difference of opinion about the use of monthly "briefing" training.	Assign the Inspections Unit to audit briefing training to ensure that the training developed is being distributed properly to the field.
	There appears to be a fundamental lack of understanding by police officers about the purpose of civilian oversight of law enforcement agencies.	Include training about civilian oversight of policing agencies in the APD curriculum.
	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.	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 would benefit by incorporating common elements of other agencies' shooting policies and procedures into APD SOPs.	Establish a process and time that that officers will be placed on administrative leave following a shooting incident. Include a discussion of the Behavioral Sciences Division Staff Psychologist protocol for officer involved shootings in SOP 2-31. Expand the Critical Incident Review Board to conduct inquiries and make recommendations for officer involved incidents resulting in death or great bodily injury.
	The length of time to complete shooting investigations and for the DA to make a legal determination appears excessive.	Reduce the time it takes APD detectives and the DA take to investigate officer involved shootings and make a legal determination.

MGT 2011 Report Summary

Background	Problems Identified	Recommendations
Pursuant to Section 9-4-1-11 of the Police Oversight Ordinance, adopted by the City of Albuquerque in 1998, the Albuquerque City Council is required every four years to enlist an independent "evaluation and analysis of the entire Police Oversight Process" - In early 2011, MGT of America, Inc. (hereinafter MGT) was commissioned to provide the third of these reports - MGT's consultant team consisted of the following personnel: Bob Lauder, MGT Partner-in-Charge and Project Manager Chad Lersch, Staff Consultant (MGT, Austin, TX) Ron Glensor, Independent Consultant (35-yr law enforcement veteran, former Assistant Chief of Police, Reno, NV) Bruce Mills, Independent Consultant (former Assistant Chief of Police, Austin, TX)	**Police Oversight Process** Problem/Finding 4-1: Insufficient community outreach related to the public letter record dispatched to citizen complainants, advising of the disposition of their complaint. Problem/Finding 4.2: Ignoring larger organizational problems by placing heavy emphasis on complaint disposition with little policy review Problem/Finding 4-3: Mediation, although proven effective in dispute resolution, is used infrequently in the citizen/police oversight process. Problem/Finding 4-4: Complaints that are resolved through mediation are classified as inactivated. Problem/Finding 4-5: Small number of appeals may be a result of a relatively narrow window of time in which to appeal. Problem/Finding 4-6: A successful police oversight process is dependent upon all stakeholders and involved parties taking an active, responsible role.	**Police Oversight Process** Recommendation 4-1: Develop a brochure to accompany the public letter record, explaining CPC investigation terminology to the complainant. Recommendation 4.2: Provide analysis and summary (charts) of meaningful data that will help to reveal systemic issues that may have given rise to the original complaints. Recommendation 4-3: Enhance outreach efforts to complainants and officers alike to encourage the use of mediation." Recommendation 4-4: "Include "successfully mediated" as a complaint disposition category." Recommendation 4-5: Extend deadline for appeals from 10 business days to 30 calendar days. Recommendation 4-6: Fully engaged City Council, providing the Mayor with qualified nominees and maintaining oversight through ongoing communication with appointees.
	Police Oversight Commission Problem/Finding 5-1: POC annual training is insufficient to ensure POC member understanding of law enforcement policy and procedures, thus impairing POC competence in discharging its duties.	**Police Oversight Commission** Recommendation 5-1: Create a training program that ensures all members of the POC are fully informed of their responsibilities and have a competent level of knowledge regarding police operations.

	Problem/Finding 5-2: POC member compliance with training is neither tracked nor monitored.	Recommendation 5-2: Monitor and track POC member training in compliance with ordinance. Amend city ordinance to require an accounting of annual POC member training, with failure to comply being grounds for removal of a non-compliant POC member
	Problem/Finding 5-3: Unexcused member absences from POC meetings are neither monitored, nor tracked.	Recommendation 5-3: Monitor and track POC member attendance of monthly meetings, requiring adequate proof for excused absence by members.
	Problem/Finding 5-4: City Council oversight of POC members.	Recommendation 5-4: City councilors should endeavor to ensure qualified POC appointees who will adhere to the overall POC mission.
	Problem/Finding 5-5: Although the LTPC was created by the POC to review policy and analyze trends of citizen complaints, the LTPC currently performs none of these tasks.	Recommendation 5-5: POC should identify major problems and identify a program of policy suggestions and studies through the use of its LTPC.
	Problem/Finding 5-6: LTPC is no longer proactive in identifying systemic problems and making policy suggestions to the POC.	Recommendation 5-6: Amend section 9-4-1-11 to require the LTPC to monitor the status of recommendations through regular updates to the full commission and designated city staff and/or agencies.
	Problem/Finding 5-7: POC had not reviewed a quarterly or annual report from the IRO in some time	Recommendation 5-7: Amend the ordinance to require the POC, through the IRO, to consider the published chart of sanctions and recommend discipline for all sustained complaints, separate from the discipline imposed by the APD.
	Problem/Finding 5-8: POC and IRO claim they do not possess enough authority in the oversight process to ensure their recommendations are followed.	Recommendation 5-8: Amend the ordinance to require additional analysis and data, including specific disciplinary outcomes of sustained complaints and long-term trend analysis.

	Problem/Finding 5-9: Inability of POC to address systemic issues related to APD accountability and minimization of police misconduct. Problem/Finding 5-10: There is very little public interaction, either private or public, between the POC and police executives.	Recommendation 5-9: Amend the ordinance to require reporting of a standard range of discipline for violations of each SOP pursuant to APD's SOP guidelines. Recommendation 5-10: Bi-annual public meeting between the POC and APD Chief to discuss policy issues and concerns, allowing for public input.
	Independent Review Officer Problem/Finding 6-1: Increasing number of citizen complaints being referred to the IA for investigation due to insufficient IRO staff to handle the workload. Problem/Finding 6-2: Systemic inefficiencies have led to delays in processing citizen complaints. Problem/Finding 6-3: No formal criteria for referral of CPCs from IRO to IA. Problem/Finding 6-4: IRO's efforts to play an active role in the community and provide outreach are limited. Problem/Finding 6-5: Limited public outreach. Problem/Finding 6-6: Increasing number of officer-involved shootings.	**Independent Review Officer** Recommendation 6-1: Streamline citizen complaint process for final disposition, requiring IA to make a finding and disciplinary recommendation for claims sustained. Recommendation 6-2: Separation of complaint investigation responsibility: IA handles only internal cases (I) and the IRO handles all citizen complaints (CPC). Recommendation 6-3: Establish criteria for CPCs that will be handled by the IRO and those that will be referred to IA. Recommendation 6-4: Collaborative strategic plan for community outreach with the long-term planning committee (LTPC) and city staff. Recommendation 6-5: Conduct complainant and police officer satisfaction surveys on an on-going basis Recommendation 6-6: Amend ordinance to require that the IRO or representative be present at all officer-involved crime scenes to conduct a concurrent, independent investigation.

	Problem/Finding 6-7: There is currently very little proactive APD oversight being conducted by the IRO's officer. The only oversight being conducted is reactive in nature. Problem/Finding 6-8: A close examination of complaints can reveal the need for policy changes and/or additional police training. Problem/Finding 6-9: An IRO's substantial minimum qualifications and unique skills developed on the job, it does not serve the city to limit the term to only 2 years. Problem/Finding 6-10: Functionality issues with APD's new records management system (RMS) have led to problems and delays in IRO investigators obtaining police reports. Problem/Finding 6-11: Despite limited IRO staff, third-party complaints, even those that have no merit, require a full investigation with a finding.	Recommendation 6-7: Appoint a special auditor/analyst to IRO's office, provided with open access to APD records and broad Authority, to report on all aspects of departmental policy and advocate for systemic reform, where necessary. Recommendation 6-8: Grant IRO's office full access to the APD's early warning system (EWS). Recommendation 6-9: Amend ordinance to extend IRO contract to greater than two-years Recommendation 6-10: Collaborative effort between IRO, APD Chief and department officials to reduce delays in obtaining case information from APD records. Recommendation 6-11: A truncated IRO review process for investigating third-party complaints.
	APD Internal Affairs Problem/Finding 7-1: IA lieutenants tend to rotate out of this assignment after a short period of time. There is no established duration to this assignment. Problem/Finding 7-2: An IA lieutenant can select a person to fill an open IA investigator's position without allowing others to apply. Problem/Finding 7-3: IRO shifting investigation of certain CPCs to IA creates inefficiencies and impedes the complaint resolution.	**APD Internal Affairs** Recommendation 7-1: Develop criteria that establish the minimum and maximum length of time the IA commander may work in that assignment. Recommendation 7-2: Develop job criteria for sergeants selected to work in IA that requires experience as a supervisor. Recommendation 7-3: Consider limiting IA's investigations to Is only.

	Problem/Finding 7-4: EWS, UOF(use of force) and IA reports lack the SOP-required analyses and discussion to fully inform the report reader.	Recommendation 7-4: Modify the quarterly and annual report format to address all IA reporting requirements as delineated in SOPs.
	Other APD Accountability Mechanisms Problem/Finding 8-1: APD's new Multi-Relational Internal Affairs Database (MRIAID) software does not provide trend analysis. Problem/Finding 8-2: Currently, UOF incident reports do not include resisting arrest or assault on police officer incidents. Problem/Finding 8-3: APD's EWS review panel, as described in SOP 3-49-2, has not been used as intended Problem/Finding 8-4: The use of a set number of entries in EWS as a threshold for intervention does not take into account the different environments to which officers are Assigned. Problem/Finding 8-5: Use of force reporting is inconsistent. At issue is an officer or supervisor's interpretation of the requirement to "immediately" report the incident. Problem/Finding 8-6: 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.	**Other APD Accountability Mechanisms** Recommendation 8-1: Software programs designed for comprehensive data analysis and report generation. Recommendation 8-2: Include the tracking of resisting arrest and assault on police officer data in the EWS. Recommendation 8-3: Review the function of the EWS review panel (SOP 3-49) to ensure it is being used as required by the SOP. 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 on the deviation from a standard or norm for the area and the shift each officer works. Recommendation 8-5: Issue the "APD Sergeant Reference Guide" in training for all lieutenants and sergeants and task the Training Committee to ensure training requirements in this guide are met. Recommendation 8-6: Work with City Attorney's Office, IRO, and IA to develop a process and/or implement software by which the monitoring and analysis of claims data can be accomplished.

	Problem/Finding 8-7: There is currently no effort to widely disseminate the SOP's or SOP updates department-wide.	Recommendation 8-7: Distribute SOP's electronically and automate the process to automatically notify all employees of any SOP changes.