



## POLICE OVERSIGHT BOARD POLICY AND PROCEDURE REVIEW SUBCOMMITTEE

Thursday, July 20, 2017 – 5:00 p.m.  
Plaza Del Sol Building, 600 2<sup>nd</sup> Street NW  
3<sup>rd</sup> Floor Small Conference Room

### Members Present

Susanne Brown, Chair  
Eric Cruz  
William Kass

### Others Present

Edward Harness, Exec. Director  
Diane McDermott  
Michelle Contreras

### Minutes

- I. **Welcome and Call to Order:** Subcommittee Chair Brown called the meeting to order at 5:05 p.m.
- II. **Introduction of Visitors - None**
- III. **Visitor Comments - None.**
- IV. **Approval of Agenda:** Copies of the agenda were distributed. The agenda was amended as follows:
  - A. Under item IX, *Report from CPOA, Edward Harness*, add the following topics:
    - i. City Action Plan
    - ii. CPOA Research Position
  - B. Under item X, *Other Business*, add the following topics:
    - i. Update on Ordinance Process
    - ii. Accidental discharge of a firearm – a policy recommendation for the Force Review Board (FRB)
  - C. Subcommittee Member Kass made a motion to approve the agenda as amended. Subcommittee Chair Brown seconded the motion. The motion was carried by the following vote:  
**For -2: Brown, Kass**
- V. **Approval of the Minutes:** Copies of the June 15, 2017 minutes were distributed. Subcommittee Member Kass made a motion to approve the minutes. Subcommittee Chair Brown seconded the motion. The motion was carried by the following vote:  
**For -2: Brown, Kass**

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Civilian Police Oversight Agency  
Police Oversight Board – Policy & Procedure Subcommittee  
Minutes – July 20, 2017

**VI. Public Comments – None.**

\*\*\*Subcommittee Member Cruz came in during item VII, a. at 5:20 p.m.\*\*\*

**VII. Discussion:**

**A. Combined discussion: Draft Letter to Chief regarding HR/APD Supervisor Promotion policy and HR/APD Supervisor Promotion Policy. (See attachment “A” for the City’s draft HR Promotion policy).**

- i. Member Brown read her draft letter to the Chief in which she would like to include the following edits:
  - a. Member Kass read the new definition regarding Constitutional policing and would like for it to be added to the policy as a new letter “K” but edited down.
  - b. Director Harness explained that the policy that Dr. Kass is the currently accepted policy. The policy that Subcommittee Chair Brown has is the City’s proposed changes to the policy which will be reviewed by the DOJ Monitor in August.
  - c. After the discussion about the version of the HR Promotion policy was being review by DOJ Monitor, Subcommittee Chair Brown indicated that they should be sending the letter to the DOJ Monitor instead.
  - d. In the letter, the following topics is what the Subcommittee are recommending to be added to the policy are: 1) the definition of constitutional policing, 2) the testing committee to include people from the community, such as subject-matter experts (e.g. mental health, homeless, at-risk-youth, and racial groups) and 3) the weighting of the exam, such as a table with percentages.
- ii. The members discussed the testing portion of the policy and Ms. McDermott recommended that someone from HR come to a Policy Subcommittee meeting to discuss what is on the test.
- iii. Subcommittee Chair Brown made a motion that they go ahead and try and get the information from HR about what is currently available on the test and after we get their [HR] response, we go ahead and craft a letter [to the DOJ Monitor] based on these three areas [see item VII, A, d]. The motion was seconded by Member Kass. The motion was not carried for a vote.
- iv. **Action Item:** Instead of a having another meeting, Director Harness suggested that if he get the test from HR, he will then forward the Subcommittee members the test, and then the Members can email each their other ideas.

- B. **Draft Letter to Chief regarding above-referenced policy. (See item VII, A. for discussion).**
- C. **Spymaster.** Members discussed the lawsuit brought on by the ACLU. The Albuquerque Journal published an article about the Spymaster that APD may be using. For article, please refer to the Albuquerque Journal's website here: <https://www.abqjournal.com/1029142/aclu-albuquerque-police-mum-on-cellphone-spying-technology.html>
  - i. Subcommittee Chair Brown suggested that this topic be brought up at the POB meeting. Director Harness stated that they could invite subject-matter experts on this technology and explain how it works and it fits in within the Search and Seizure policy.

**VIII. Reorganization of Policy Subcommittee.**

- A. Subcommittee Chair Brown has resigned as Chair of the Policy & Procedure Subcommittee. Member Kass has volunteered to be Chair of the Subcommittee.
- B. A motion was made by Member Cruz to make Dr. Kass the new Chair of the Policy Subcommittee. Subcommittee Chair Brown seconded the motion. The motion was carried by the following vote:  
**For – 3: Brown, Cruz, Kass**

**IX. Report from CPOA – Director Edward Harness**

- A. **CPOA Research Position.** Director Harness discussed the CPOA Analyst E14 position. **(See attachment “B”)**
  - i. Director Harness stated that Ms. Cara Garcia opted out on the position and has taken another job.
  - ii. Director Harness will meet with HR on re-writing the job description in order to dumb it down.
  - iii. Member Cruz suggested that this position to be contract out.
  - iv. Director Harness stated that Dr. Verploegh has offered her services on contractual bases. Director Harness will contact HR about the contractor option.
  - v. If Subcommittee members have any input on the CPOA Analyst job description, to email them to Director Harness.
- B. **City's Action plan.** Director Harness discussed the City's action plan as it relates to the Policy Subcommittee.
  - i. Director Harness read the City's responses as to CPOA/POB concern #12, as it pertains to the Policy Subcommittee.
  - ii. Member Kass initiated a discussion regarding as a follow up from the last POB meeting regarding why APD would adhere to what the ordinance says. As a result, Member Kass went through the CPOA/POB ordinance line by line and highlighted around 30 or so references that are associated with APD. **(See attachment “C”)**
    - a. Member Kass pointed out two important subjects in the ordinance on page 13, #4 and #33.

- b. Member Kass read the first sentence of section 9-4-1-14 Mandatory Cooperation Agreement.
- c. Member Kass suggests that the Policy Subcommittee to write a formal request to get APD to formalize their cooperation with the CPOA/POB ordinance is to have them create a Standard Operating Procedure (SOP).
- d. Office of Policy Analysis (OPA) and Policy and Procedures Review Board (PPRB) are not open meetings and are not subject to the Open Meetings Act (OMA). In addition, they do not draft minutes or vote on policy.

**X. Other business.**

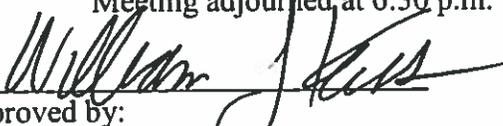
- A. Update on Ordinance Process.** The amended ordinance was submitted by Director Harness to Julian Moya and Chris Melendrez at City Council. Director Harness has asked if there was anything that the POB needed to solicit sponsors for the amended ordinance and has not heard back.
- B. Accidental discharge of Firearms.** This is a policy recommendation for the Force Review Board (FRB). Member Brown and Member Kass to review the force review board policy and to ask that the policy include the accidental discharge of firearms.
  - i. Director Harness clarified for Member Kass about the Force Review Board (FRB) and what types of cases they hear and the process.
  - ii. Once the Subcommittee has made a policy recommendations and/or changes, Director Harness will forward it to the PPRB.
  - iii. The PPRB's next meeting will be August 10, 2017.

**XI. Next Meeting:** The next Policy and Procedure Subcommittee will be Thursday, August 17, 2017 at 5:00 p.m.

**XII. Adjournment:** Subcommittee Member Cruz made a motion to adjourn the meeting. Subcommittee Chair Brown seconded the motion. The motion was carried by the following vote:

**For -3: Brown, Cruz, Kass**

Meeting adjourned at 6:30 p.m.

Approved by:  
  
 Dr. William Kass, Chair  
 Policy Review Subcommittee

  
 Date

CC: Julian Moya, City Council Staff  
 Natalie Y. Howard, City Clerk  
 Isaac Benton, City Council President



# **Attachments**

TITLE— HUMAN RESOURCES DEPARTMENT-  
 CHAPTER 2 Testing and Examinations  
 PART 3- Police Department Promotional Procedures

1. ~~ISSUING AGENCIES~~ISSUING AGENCIES: The Human Resources Department and the Albuquerque Police Department.

2. ~~SCOPE~~SCOPE: This section will be the only source of authority for promotion of sworn personnel.

3. ~~STATUTORY AUTHORITY~~STATUTORY AUTHORITY: Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 (2006) Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2006); Civil Rights Act of 1991; EEOC Uniform Guidelines on Employee Selection Procedures, 29 CFR pt. 1607, (1978); City of Albuquerque, NM, Code of Ordinances, Ch. 3 art. 1, Merit System; N.M. Stat. Ann. § 66-5-54; 49 U.S.C.A. §§ 31100-31161; Retention and Disposition Schedule for General Personnel Records, 1.15.6 NMAC; Uniformed Services Employment and Re-Employment Rights Act (USERRA), 38 U.S.C.A. § 4301 et seq.; Family and Medical Leave Act of 1993 (FMLA)

4. ~~DURATION~~DURATION: Until revoked.

5. ~~EFFECTIVE DATE~~EFFECTIVE DATE: July 19, 2016 (Month)(Date), 2017

6. ~~OBJECTIVE~~OBJECTIVE: The historic agreement between the City of Albuquerque and the US Department of Justice, CASA, contemplates the adoption of Constitutional and community oriented policing (CASA 241).

"At its most basic level, Constitutional policing is described as 'legal policing.' This means that policing must be conducted in accord with the parameters set by the US Constitution, state constitutions and the many court decisions that have defined in great detail what the Constitution mandates in terms of everyday practices of policing." ("Constitutional Policing as a Cornerstone of Community Policing: a Report by the Police Executive Research Forum, April 2015, Office of Community Oriented Policing Services, US Department of Justice.) The phrase is often used in the context of deciding whether a certain policy or practice by a police department, or a particular officer's action in a certain situation, adheres to the requirements of the US Constitution and is lawful. (id, Page 3).

A concomitant part of Constitutional policing is community policing. The phrase refers to a "strategy of policing that focuses on police building ties and working closely with members of a community" (Wikipedia, November 28, 2016, 20:48 UTC).

Community policing has its Genesis in the Violent Crimes Act of 1994 which, among other things, created the Office of Community Oriented Policing Services with the US Department of Justice.

The intent of community policing is to expand the police function from a reactive force that responds to crimes already committed to a proactive process that builds partnerships with

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Attachment "A"

community groups, citizens, neighborhood associations, non-profit organizations, merchant groups and service providers. The process promotes collaboration and cooperation between law enforcement and the community served, develops strategies to solve community problems, enhances the development of safe and secure neighborhoods, builds trust, encourages the sharing of information, and increases officer accountability to the citizens they serve.

6. The purpose of this Regulation is to establish the procedures for promoting to the ranks of Sergeant and Lieutenant those persons who are best qualified or suited for advancement, and the determination of placement on a promotional eligibility list based on the selection process. These procedures are to assure that selection procedures are objective and free of considerations such as race, color, religion, national origin or ancestry, disability, age, gender, Vietnam Era or disabled veteran status, sexual orientation or medical condition. These promotional rules are intended to prioritize effective, constitutional, and community-oriented policing as criteria for promotions and to account for experience, protection of civil rights, discipline history, and previous performance evaluations when considering individuals for promotion.

7. **RESPONSIBILITY FOR ADMINISTRATION:** The Chief of Police and the Director of the Human Resources Department are jointly responsible for the administration of the Police Department Promotional Procedures.

8. **DEFINITIONS:** The definitions provided herein are specific to this regulation and the promotional process.

A. **Assessment Center** means a group of situational exercises that simulate job related tasks and work activities designed to measure critical knowledge, skills, abilities, behaviors, qualities, dimensions, and competencies that have been identified through a job analysis as being required for successful performance in the position.

B. **Activation Date** means the date a Promotional Eligibility List becomes official.

C. **Assessor** means someone knowledgeable about the requirements of the position being tested and is qualified to rate the performance of candidates.

D. **Business day** means a day in which the City's administrative offices are open, typically weekdays Monday-Friday, from 8:00 AM to 5:00 PM, except City holidays and other days when the administrative offices are not open for business. See also "Calendar day" and "Day".

E. **Calendar day or "day"** means a 24-hour period, from midnight to midnight.

F. **Calendar month** means a period of time beginning on the 1st day of a month on the calendar and ending on the last day of the month as designated on the calendar; by contrast, "month" means a period from a specified day in any one calendar month to the day numerically corresponding to that day in the following calendar month, less one, typically regarded as 30 consecutive days. -By way of

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example-- a calendar month is the month of June or the month of July; a "month" is typically 30 days, such as from June 20 to July 19.

G. Candidate means an employee seeking promotion.

H. Chief Administrative Officer means the Chief Administrative Officer for the City of Albuquerque or designee.

I. Chief of Police means the administrative head of the Police Department or designee.

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J. City means the City of Albuquerque, a municipal corporation.

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K. Community policing is the process of policing that focuses on building and strengthening ties with the community through the creation of partnerships with community groups, citizens, neighborhood associations, merchants, non-profit community organizations and community service providers. The intent is to promote collaboration and cooperation between law enforcement and the community served, develop strategies to solve community problems, promote the development of safe and secure neighborhoods, share information and increase officer accountability to the community.

L. Complaints see policy statement 3-22-3, and definitions 34-22-3 (A-C).

M. Constitutional policing means that the policing function must be conducted in accord with the US Constitution, state constitution and the federal and state court decisions that define and explain rights and responsibilities under law.

N. Consultant means an independent contractor engaged by the City for a specific project, typically, but not necessarily, selected through a competitive process, to provide special expertise or independence not otherwise available through City staff.

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O. Current continuous employment means no break or interruption in an employee's assignment in current rank; a "break" or "interruption" includes a demotion for any length of time and certain leaves of absences.

P. Department means the Albuquerque Police Department, commonly abbreviated "APD".

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Q. Dimensions mean factors that represent a broad range of qualities, knowledge, skills, competencies, or behaviors a candidate should demonstrate to be successful in a position.

R. Director of Human Resources means the administrative Head of the Human Resources Department or designee.

S. Disciplinary action means an action taken by the Chief Administrative Officer.

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Department Director or designated management representative in response to a proven act of employee misconduct or uncorrected poor work performance. Disciplinary actions include, but are not limited to oral reprimands, written reprimands, counseling, selective training, suspension, demotion, loss of rank and discharge.

T Discipline means corrective action imposed on an employee intended to improve or mold behavior or to punish for misconduct including violations of rules, regulations, policy, procedures, or directives. It may include oral reprimands, written reprimands, counseling, suspension or demotion, or termination of employment.

U Erroneous Conduct means conduct which shocks the conscience.

Q-V Eligibility to Participate List means the list of candidates who have been deemed eligible to participate in a promotional process following the Management Review conducted by the Promotions Committee and approved by the Chief of Police.

R-W Employment Testing Division means the division of the Human Resources Department responsible for test development, validation, and administration.

S-X Exhaustion, in the context of promotional lists, means all candidates eligible for promotion have been promoted prior to expiration of the current promotional list.

T-Y Expiration, in the context of promotional lists, means midnight of the last date on which the promotional list is valid as provided herein; position vacancies arising after expiration cannot be filled from an expired promotional list.

U-Z Job means an official position within the City personnel system. For example, "the job duties of a Sergeant include..."

V-AA Job analysis means a determination of the relative importance of the various aspects of the job based on a detailed inventory of job tasks, duties, and activities performed on the job, and the knowledge, skills, abilities, and other characteristics required to perform the job.

BB Just cause ~~for the sole purpose~~ means having a good and sufficient reason. In the context of Police Department Promotional Procedures, ~~policy shall mean any~~ it means that the Chief of the following when they raise concerns regarding a candidate's ability to perform supervisory and management duties concisely with effective, constitutional, and community-oriented policing: (1) sustained discipline; (2) patterns of complaints, other than unfounded or exonerated, dating back two (2) years from the date Police may remove a candidate from the promotional list when the Chief of Police has just cause.

W Just cause exists when a candidate for promotion has, within five years of

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~~the written examination ~~2) a pending lawsuit alleging specific acts of unconstitutional conduct by the promotional candidate or for promotion incurred a judicial finding by a Court of competent jurisdiction of unconstitutional conduct a violation of the civil or Constitutional rights of another is under investigation for alleged criminal violations or violations of civil or Constitutional rights as defined within this policy, or has been indicted or had a probable cause determination by a judicial officer that he likely committed a felony or misdemeanor involving moral turpitude.~~~~

~~Just cause also exists when a candidate for promotion incurs two disciplines within a two year period prior to the written examination.~~

~~Just cause also exists when a candidate for promotion's misconduct, occurring within 12 months of the written examination is so egregious as to raise legitimate questions about the candidate's commitment to Constitutional and community policies and his or her ability, in light of the misconduct, to effectively supervise and manage lower level officers.~~

~~Just cause exists when a candidate for promotion has engaged in conduct of such an egregious nature during ~~his~~ or her career, which directly violates the spirit of the Court Approved Settlement Agreement (CASA) entered into with the United States Department of Justice in *United States v. City of Albuquerque*, No. 1:14-CV-1025 RB-SMV. Such conduct that predates the CASA or the effective date of this policy shall be limited to most egregious cases.~~

~~CC~~ Key copy review means a process whereby a candidate may protest questions on the written examination.

~~DD~~ Key means a copy of the written examination with the correct answers provided.

~~EE~~ Knowledge, skill, and ability, in the promotional context mean the body of learned information which is used in and is a necessary prerequisite for observable aspects of work behavior of the job.

~~FF~~ Lieutenant's Promotional Packet means a packet completed by a prospective Lieutenant candidate. This packet includes the prospective candidate's department photo, last two years of approved Employee Work Plans (EWPs), professional resume, letter of recommendation from the candidate's current Commander, and any other required documentation.

~~AA~~ This packet includes the prospective candidate's department photo, last two years of approved Employee Work Plans (EWPs), professional resume, letter of recommendation from the candidate's current Commander, and any other required documentation.

~~GG~~ Management Review means a formal review by the Promotions Committee of a candidate's submitted promotional packet.

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Comment [HSM2]: Rejected deletion on 4/7/17 pursuant to the IAT's Resolution proposal.

Comment [HSM3]: Added pursuant to the Memorandum Opinion and Order on the City's Motion for Clarification.

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## Attachment "A"

HH Moral turpitude means intentional conduct considered contrary to community standards, justice, honest or good morals. It refers to an intentional act that is wanton, vile, depraved and contrary to accepted rules of morality.

IJ On the Job Training means newly promoted Sergeants and Lieutenants will receive on the job training and will have to demonstrate proficiency in all aspects of the newly promoted position.

GG-JJ Pattern of complaints means that an employee has received two or more citizen complaints of a similar nature, filed with the Civilian Police Oversight Commission (CPOA), for which the officer was not exonerated or the complaint determined to be unfounded as defined by Internal Affairs policy, within the twelve month period prior to or subsequent to the written examination for promotion.

BB-KK Position means an official job title accompanied by a specified set of duties as set forth in the City personnel system.

EE-LL Promotion means the advancement of an employee into a higher graded position or rank within the department.

FF-MM Promotional Eligibility List means the Police Department's official list of those candidates eligible to be promoted to a higher graded position or rank within the department.

GG-NN Promotions Committee means a committee designated by the Chief of Police consisting of three (3) Department lieutenants, one (1) Commander, the APD Personnel/Payroll Coordinator, one (1) union representative, and one (1) Human Resources Employment Testing Division representative as a non-voting observer. The committee will prepare and make recommendations for the Police Chief's Directive.

HH-OO Police Chief's Directive means the Department memorandum published by the Promotions Committee for the Sergeant and Lieutenant promotional processes. This directive establishes the study materials, resources, and other requirements for promotional processes.

II-PP Scoring benchmarks means a set of specific behavioral examples illustrating different levels of performance used to rate a candidate's performance in an assessment center or oral interview.

II-OO Scoring review means a process whereby a candidate can compare his or her answer sheet against the template of correct answers for accuracy.

RR Sergeant's Promotional Packet means a packet completed by a prospective Sergeant candidate. This packet includes the prospective candidate's department photo, last two years' of approved Employee Work Plans (EWPs), professional resume, letter of recommendation from the candidate's current Commander, and any other required documentation.

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Comment [HSM4]: Added 4/7/17 pursuant to the IAF's Resolution Proposal

Comment [HSM5]: Added 3/1/17 Amended Resolution Policy

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Attachment "A"

**KK-SS** Scoring review means a process whereby a candidate can compare his or her answer sheet against the template of correct answers for accuracy.

**LL** Sergeant's Promotional Packet means a packet completed by a prospective Sergeant candidate. This packet includes the prospective candidate's department photo, last two years' of approved Employee Work Plans (EWPs), professional resume, letter of recommendation from the candidate's current Commander, and any other required documentation.

**MM-TT** Situational exercise means an exercise, within the Assessment Center, developed to assess a candidate's ability to handle a hypothetical scenario presented, and to assist in determining whether the candidate possesses the knowledge, skills, and abilities required for the position.

**UU** Source documents mean the required study materials listed in the official announcement for a promotional process.

**VV** Structured oral interview means an interview to solicit answers to questions presented to assist in determining whether a candidate possesses knowledge, skills, and abilities as well as experience and judgment required for the position.

**WW** Subject-matter expert (SME) means an individual having a definitive source of knowledge, technique, or expertise in a specific subject area.

**XX** Testing Committee means a committee designated by the Chief of Police consisting of Department Lieutenant and Commander subject-matter experts. This committee is responsible for working with the Human Resources Department in the development, validation, and administration of the promotional written exam, assessment center exercises and/or structured oral interviews.

**YY** Under investigation means an investigation being conducted by APD Internal Affairs, the CPOA, or any state or federal agency for alleged criminal violations or violations of civil or Constitutional rights.

**ZZ** Validation, in personnel psychology, means establishment of the relationship between a test instrument or other selection procedure and performance on the job.

**AAA** Written examination means a multiple-choice test that assists in determining whether a candidate possesses the knowledge, skills, and abilities required for the position.

9. **PREPARATION AND ADMINISTRATION OF PROMOTIONAL PROCESS**

A. Upon request of the Chief of Police, the Director of Human Resources will authorize the development, validation, and administration of the promotional process. The

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use of a consultant may be authorized by the Director of Human Resources.

B. The dates, locations of the administration of the promotional proceedings, and the source documents to be used in the development of the written examination will be announced at least thirty (30) calendar days in advance of the administration of the written examination. Any rescheduling or relocation must be announced in a timely manner.

10. ELIGIBILITY TO PARTICIPATE IN A PROMOTIONAL PROCESS - GENERALLY

A. The Promotions Committee, selected by the Chief of Police, consisting of three (3) Department Lieutenants, one (1) Commander, the APD Personnel/Payroll Coordinator, one (1) union representative, and one (1) Human Resources Employment Testing Division representative as a non-voting observer, will determine if personnel who signed up for the written examination are qualified to compete for promotion. The union representative's role shall be limited to observing, reviewing, and validating the candidate's eligibility to participate in a promotional process.

B. A Management Review will be conducted by the Promotions Committee to determine a candidate's eligibility to participate in a promotional process.

(1) Candidates must be in compliance with Employee Work Plan requirements, and, for a period of two years prior to the administration of the examination, Candidates must have no discipline as defined under Section 11 or patterns of complaints which indicate a lack of Constitutional policing, a lack of community policing or a judicial finding of violations of civil or constitutional rights, have no disciplinary issues as defined in Section 11 or patterns of complaints, other than unfounded or exonerated, dating back two (2) years, or two (2) months from the date of the written examination, for which indicate a lack of constitutional Constitutional policing, a lack of community policing, or a judicial finding of violations of civil or constitutional rights, and meet all rank specific requirements.

(2) If a candidate receives a "does not meet standards" rating on either of the two most recent final annual

(2) performance evaluations in the personnel file the candidate will be an automatic disqualifier, automatically disqualified.

(3) If the Management Review determines a candidate is ineligible to participate in a promotional process due to disciplinary issues two or more disciplines including violations of rules, regulations, policies, procedures or directives within a 12 month period prior to or subsequent to the written examination for promotion, or if there is any

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Comment [HSM6]: Comment added pursuant to ID's Resolution Comment and clarification

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~~judicial determination of civil or Constitutional rights violations, or any indictment or probable cause determination made by a judicial officer involving a felony or misdemeanor relating to moral turpitude, or patterns of complaints as described in section 10(B)(1), the Chief of Police will be notified in writing of the findings. The Chief of Police shall either concur or differ with the findings.~~

~~(4) (4) After the Promotions Committee has formally reviewed all candidates' packets to determine eligibility to proceed in a promotional process, a list of candidates who are eligible to participate in the written exam will be issued. The Eligibility to Participate List must be approved by the Chief of Police.~~

~~(5) (5) Nothing shall prevent the Chief of Police from removing a candidate's name from the Eligibility to Participate List for just cause as defined in "Definitions" Section BB of this policy or for the reasons described in Section 11.~~

~~C Personnel who have been temporarily demoted (not permanently) and wish to participate in a promotional process in order to obtain their original rank must submit a letter to the Chief of Police for consideration of eligibility to participate in the promotional process.~~

Comment [HSM7]: Change added on 4/7/17 pursuant to IBI's resolution agreement

**11. 11. ELIGIBILITY TO PARTICIPATE IN A PROMOTIONAL PROCESS - SUSTAINED SUSPENSION OR A DISQUALIFYING EVENT.**

~~A candidate who is considering participating in a promotional process must not have any sustained discipline resulting in suspension within the last twelve (12) months prior or subsequent to the date of the written examination, excluding first accident suspension.~~

~~A. Any sustained suspension received within two (2) years of the written examination will also be considered and may, at the discretion of the Chief of Police, disqualify the candidate.~~

~~B. Any two (2) suspensions received within five (5) years of the written examination will also be considered and may, at the discretion of the Chief of Police, disqualify the candidate.~~

~~C. Any sustained suspension of forty (40) or more hours, to include time held in abeyance, within five (5) years of the written examination will also be considered and may, at the discretion of the Chief of Police, disqualify the candidate.~~

~~C. Any suspension of forty (40) or more hours, to include time held in abeyance, within five (5) years of the written examination will be considered and may, at the discretion of the Chief of Police, disqualify the candidate.~~

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D. The date on which the disciplinary ~~infraction~~action occurred ~~will be~~ used to determine ineligibility.

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E. ~~In addition to the suspensions described in this Section, the~~The Chief of Police may exclude a candidate ~~who is considering from~~ participating in ~~the~~ promotional process for just cause as defined in these Rules.

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(1) ~~The Chief of Police may exclude a candidate for just cause for who has incurred any incident dating back five (5) two (2) or more disciplines occurring within two years from the date of the written examination.~~

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(2) Ordinarily, only incidents dating back ~~five (5) two (2)~~ years from the date of the written examination will be considered. However, the Chief of Police, at his or her discretion, may consider any disciplinary action throughout the candidate's career, if the underlying action is ~~so egregious that it directly violates the spirit of the CASA, jeopardizes or implicates a public safety concern~~, if the Chief of Police considers disciplinary action beyond ~~two (2) five (5)~~ years from the date of the written exam, he or she will notify the candidate, in writing, that he or she is contemplating suspending the candidate from eligibility to participate in a promotional process. Such notification ~~shall~~ contain a description of why the candidate is being excluded from participating in a promotional process, with sufficient detail to allow the candidate to respond. The candidate will be given the opportunity to rebut the decision in writing within ten (10) calendar days from the date of notification. The Chief of Police will provide a written response to the candidate with a final determination within seven (7) calendar days from the date the candidate submits a written rebuttal.

Comment [HSM8]: Comment Added 4/7/17

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Comment [HSM9]: Added pursuant to Judge Beck's order

F. If a ~~sustained~~ disciplinary action resulting in suspension is ~~being~~ appealed, the candidate ~~will be~~ permitted to participate in the promotional process until such time as the appeal is decided.

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(1) If the discipline is upheld, the candidate ~~will be~~ removed from the process.

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(2) If the appeal is not determined at the time the list of candidates eligible to participate in the assessment center is published, and the candidate has received a written exam score that would make the candidate eligible to participate in the assessment center, the candidate ~~will be~~ permitted to proceed to the assessment center. In that event, the number of candidates eligible to participate will increase according to the number of candidates currently involved in an appeal.

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(3) If the appeal is not determined at the time the promotional eligibility list is published, and the candidate's combined score from the written examination and the assessment center totals at least seventy percent

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(70%) the number of candidates placed on the promotional eligibility list will increase according to the number of candidates currently involved an appeal.

- (4) As appeals are resolved, candidates made ineligible by their disciplinary action being upheld will be removed from the list or demoted to the previously held rank if the promotion has already been processed.
- (5) The Chief of Police may utilize the rule of three (3) in cases where an appeal is pending.

**12. RANK-SPECIFIC REQUIREMENTS** listed from lowest to highest, are those requirements that a candidate must meet to be eligible for promotion to a specific rank. In addition to the rank-specific requirements, a candidate must meet all the requirements of the lower rank and currently be holding that rank as well as those specified for the rank to which promotion is sought.

- B. Sergeant**  
To be eligible to participate in the Sergeant's promotional process, sworn personnel must have, as of the date of the written examination, six (6) years of ~~current~~ **continuous** employment as a full-time certified APD Police Officer.
- C. Lieutenant**  
To be eligible to participate in the Lieutenant's promotional process, sworn personnel must have, as of the date of the written examination, nine (9) years of ~~current~~ **continuous** employment as a full-time certified APD Police Officer; three (3) years of which must have been from the date of promotion to the permanent rank of Sergeant with the APD and currently hold the rank of Sergeant.

**13. PROMOTIONAL EXAMINATIONS**

- A.** Each Sergeant and Lieutenant promotional process will consist of a written examination, **A.** an assessment center, and a rating of experience/education.
- B.** Prior to the administration of the written examination and after consultation with the Chief of Police, the Human Resources Department will announce the number of candidates expected to advance from the written examination to the assessment center and the final number of candidates to be placed on the promotional list.

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- C. The number of candidates to be placed on the promotional list will be based on the existing and/or anticipated vacancies for the next twelve months as determined by the Chief of Police in consultation with the Director of Human Resources.
- D. Promotional lists expire twelve (12) calendar months from the activation date of the promotional list and will be dated so the list ends on the first calendar day of a pay period. Individuals on a promotional list who are not promoted by the expiration date of the list must retest in a future promotional process to be considered for promotion.
- E. If a promotional list is exhausted in a year or less, the Chief of Police may request another promotional examination.

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**14. ELIGIBILITY TO CONTINUE PARTICIPATING IN A PROMOTIONAL PROCESS PENDING THE OUTCOME OF AN ACTIVE INVESTIGATION**

**14. ELIGIBILITY TO CONTINUE PARTICIPATING IN A PROMOTIONAL PROCESS PENDING THE OUTCOME OF AN ACTIVE INVESTIGATION**

- A. A candidate who is participating in a promotional process and becomes the subject of an active criminal investigation or civil rights investigation, in which the underlying facts implicate 1) violations of department policies and/or the law 2) disciplinary action; 3) patterns of complaints, other than unfounded or exonerated, dating back ~~twelve (12) months two (2) years~~ from the date of the written examination; 4) patterns of sustained IA complaints; or, 5) the candidate has a pending lawsuit alleging specific acts of unconstitutional conduct by the promotional candidate or judicial finding of unconstitutional conduct, will at the discretion of the Chief of Police be conditionally allowed to continue in the promotional process, pending the results or outcome of such investigation or lawsuit ~~at the discretion of the Chief~~.
- B. A candidate who is participating in a promotional process and becomes the subject of an administrative investigation will at the discretion of the Chief be conditionally allowed to continue in the promotional process pending the results or outcome of such investigation ~~at the discretion of the Chief~~.
- C. The candidate ~~shall~~ be notified in writing that he/she is the subject of ~~such~~ an investigation and is being conditionally allowed to continue in the promotional process, pending the results or outcome of the relevant investigation or lawsuit ~~at the discretion of the Chief~~.
- D. In the event that an active criminal or federal or state civil rights investigation, as defined in Section 14(A) above, results in a sustained finding of the candidate's violation of the civil or constitutional rights of another, the candidate will be permanently removed from participation in the current promotional process. ~~In the event that an administrative investigation results in a sustained finding the candidate will be permanently removed from participation in the current promotional process~~.

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15. LEAVE OF ABSENCE AS A BREAK IN CURRENT CONTINUOUS EMPLOYMENT

- A. An approved leave of absence of six (6) calendar weeks or more ~~may be~~ counted as current continuous employment in determining eligibility to participate in promotional proceedings, if the leave is determined by the Chief of Police to have further advanced the candidate's qualifications. Such determination should be made prior to a candidate ~~embarking on or commencing the~~ leave of absence.
  - (1) ~~Candidates are~~ A candidate is responsible for initiating a request for determination prior to the start of the leave of absence.
  - (2) If a leave of absence is not approved by the Chief of Police as continuous employment further enhancing the candidate's qualifications, the leave period will be deducted from the period of continuous employment.
- B. Leave with or without pay under the Family and Medical Leave Act of 1993 (FMLA) ~~will be~~ counted as continuous employment for the ~~sole~~ purpose of determining eligibility to participate in the promotional process.
- C. ~~Leaves~~ A leave of absence to campaign for public office as allowed under the Merit System Ordinance of Personnel Rules and Regulations, to hold public office, or to pursue other gainful employment ~~will not be~~ counted as continuous employment in determining eligibility to participate in a promotional process. The period during which leave is taken ~~will be~~ deducted from the period of continuous employment.

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16. PARTICIPATION IN THE PROMOTIONAL PROCESS

- A. ~~Sworn~~ A sworn eligible ~~personnel~~ employee who ~~wishes~~ to participate in a promotional process must sign a request roster posted in the APD Personnel/Payroll Office within the time-frame announced.
  - (1) ~~Eligible personnel~~ The candidate must appear at the examination site at the designated time.
  - (2) Failure to appear ~~for~~ participate in any part of the scheduled promotion proceedings will result in termination of the candidate's continuation in the promotional process.
- B. ~~Sworn eligible personnel~~ A candidate on approved leave at the time of the announcement may submit a written request ~~for modification of the promotional process schedule~~ to the Chief of Police within the same time-frame period.
- C. The Uniformed Services Employment and Reemployment Rights Act (USERRA) ~~will be~~ followed for candidates unable to participate due to approved military leave when called to active duty in emergencies declared by the Governor or President.
- D. ~~Travel~~ A candidate's travel expenses ~~will~~ not be paid by the City.

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17. SUBJECT MATTER OF PROMOTIONAL PROCESS

- A. Written test items for the promotional examinations for the ranks of Sergeant and Lieutenant ~~will be~~ prepared by or under the direction of the Human Resources Department from materials approved by the Chief of Police or designee. The subject area and, where possible, the source materials for each promotional process ~~will be~~ specified ~~but~~ will include ~~constitutional-policing-testing on Constitutional and~~ community ~~oriented~~-policing, and protection of civil ~~and Constitutional~~ rights.
- B. The Chief of Police ~~shall~~ designate Police Department subject-matter experts to the Testing Committee to work with the Human Resources Department in the preparation of written test items, assessment center exercises, and/or structured oral interviews. The Testing Committee ~~shall also~~ complete an After Action Report to be submitted to the Promotions Committee after a promotional process ~~has~~ concluded.
- C. The Promotions Committee ~~will be~~ responsible for ~~making recommendations/recommending~~ and reviewing all source materials for each promotional process. Source materials ~~will be~~ listed in the Chief of Police's Directive and are effective for two promotional testing processes for the same rank. If source materials ~~are deemed in need of change/require revisions~~, a new directive ~~will be~~ issued with a list of the updated materials.
- D. The most recent version of source materials ~~that are continually being updated will be~~ used for promotional processes whenever possible. These materials ~~may~~ include, but ~~are~~ not limited to, Departmental Procedures, Special Orders, and City of Albuquerque Rules ~~and Regulations and Policies~~.
- E. The subject area(s) and, ~~as applicable~~, the source materials for each promotional process ~~will be~~ specified in the announcement.
- F. The Chief of Police or designee ~~will review/reviews~~ the job description for the rank being tested, the structure and ~~weight of weight given to~~ the promotional process subject areas, and the administration of the promotional process to ascertain ~~conformance/compliance~~ to City and Police Department rules and regulations, practices, procedures, ~~policy~~ equipment, and training.

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18. PROMOTIONAL PROCESS FOR SERGEANT AND LIEUTENANT

- A. The final promotional score ~~will consist/consists~~ of the written examination score, assessment center score, and the experience/education rating score. Up to thirty (30) points ~~can~~ be obtained on the written examination, up to sixty (60) points on the assessment center, and up to ten (10) points on the experience/education rating.

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B. Written Examination

- (1) The written examination for each rank ~~will be~~ developed based on the knowledge, skills, and abilities identified in the job analysis.
- (2) To be eligible to participate in the assessment center, ~~candidate~~ ~~candidate~~ must achieve a minimum score of seventy percent (70%). However, a written score of seventy (70%) does not guarantee eligibility to proceed to the assessment center.
- (3) In ~~accordance~~ ~~accord~~ with the criteria set forth in Section 9 (Preparation and Administration of the Promotional Process), the Human Resources Department ~~will prepare~~ ~~prepares~~ an official announcement listing the names of the candidates eligible to proceed from the written exam to the assessment center based on the highest attained written exam scores; provided, however, no candidate, with a score of less than seventy percent (70%) of the total possible score, ~~shall~~ ~~will~~ be permitted to proceed to the assessment center. The number of candidates permitted to advance to the assessment center ~~shall be~~ stated in the initial official announcement issued by the Human Resources Department.

C. Assessment Center

- ~~Candidates~~
- (1) ~~A candidate~~ eligible for the assessment center process ~~will be~~ provided information about the assessment center ~~at least no less than~~ five (5) business days before the ~~commencement of the~~ assessment center ~~begin~~.
  - (2) Dimension definitions, if applicable, and an explanation of the assessment center scoring process ~~will be~~ provided to ~~candidate~~ ~~the candidate~~ at the Assessment Center Candidate Orientation prior to the administration of the assessment center.
  - (3) Scoring benchmarks ~~will be~~ designed in such a way that a score of seventy percent (70%) or higher ~~will reflect~~ a level of proficiency sufficient to succeed in the position at entry level.

- ~~A file containing~~
- (4) ~~The candidate must submit a candidate's resume and other documents will be~~ one component of the Assessment Center.

D. Experience and Education

- (1) A rating for this score ~~will be~~ calculated from an approved resume form submitted by ~~each the~~ candidate.
- (2) The Promotions Committee ~~will verify~~ ~~verifies~~ the information on the resume

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prior to the assessment center.

- (3) Ratings ~~will be~~ calculated by the same committee that determines eligibility to participate in the promotional process. The experience rating score ~~will be~~ calculated as of the last day of the assessment center for time in service.
- (4) The experience rating score for ~~candidate's candidate~~ for Sergeant is one-quarter (0.25) of a point per year for service as a sworn APD police officer, calculated from the date of graduation from the Albuquerque Police Academy, or date of hire for lateral police officers.
  - a) Credit is limited to twenty (20) years, for a maximum of five (5) points.
  - b) No credit ~~will be~~ given for periods of Leave without Pay, exclusive of FMLA, or disciplinary suspensions unless the Chief of Police determines in writing that the infraction is not related to fitness for promotion.
- (5) The experience rating score for ~~candidate's candidate~~ for Lieutenant is one-eighth (0.125) of a point per year for service as a sworn APD police officer, calculated from the date of graduation from the Albuquerque Police Academy, or date of hire for lateral police ~~officers/officer~~.
  - a) ~~a)~~ Credit is limited to twenty (20) years, ~~for up to~~ a maximum of two and one-half (2.5) points.
  - b) ~~b)~~ In addition, ~~candidate's candidate~~ for Lieutenant ~~will receive/receives~~ 0.1665 points per year of service with APD at the rank of Sergeant. This credit is limited to fifteen (15) years, for a maximum of two and one-half (2.5) points.
  - c) ~~c)~~ No credit ~~will be~~ given for periods of Leave without Pay, exclusive of FMLA, or disciplinary suspensions unless the Chief of Police determines in writing that the infraction is not related to fitness for promotion.
- (6) The education rating score ~~will be~~ a maximum of five (5) points. ~~Candidate~~ ~~A candidate~~ competing for the position of Sergeant or Lieutenant who ~~has/have~~ an Associate's ~~degree~~ degree from an accredited college or university ~~shall/will~~ receive two (2) education rating ~~points~~ points. ~~Candidate~~ ~~A candidate~~ who ~~has/have~~ a Bachelor's degree, or higher, from an accredited ~~college or university~~ college or university ~~shall/will~~ receive five (5) education rating points.

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19. REVIEW PROCESS

A. Key Copy Review

- (1) After completion of the written examination, candidate's candidate may review a keyed copy of the exam by making one (1) appointment for a maximum of two (2) hours with the Employment Testing Division of the Human Resources Department.
  - a) This two (2) hour key copy review period represents the challenge process whereby a candidate may protest questions on the examination.
  - b) Key copy reviews will be held for five (5) business days beginning on the first business day immediately following completion of the written examination.
- (2) Candidates participating in the key copy review process will be given a total of two (2) hours to review the keyed copy of the exam and to prepare written protests on-site.
- (3) If a candidate wishes to protest any of the test questions, he or she candidate must submit the protest of the test question in writing during the two (2) hour review.
- (4) Taking notes is permitted during this period, however, no testing materials, including notes, may be removed from the room at the completion of the test review.
- (5) All protests will be submitted in writing to the Director of Human Resources, or designee, who must review reviews and evaluate evaluates all information concerning the challenge.
- (6) The Director of Human Resources, or designee, with the input of the subject-matter experts, will make makes the final decision for upholding or denying the protest and will notify the candidate in writing of the decision.
- (7) After all challenges for the written examination have been resolved, and answer sheets will be scored, and candidates will be candidate is individually notified in writing of the results.

B. Scoring Review

Candidates

- (1) A candidate may review theirs or her answer sheets for scoring accuracy.
- (2) Candidates must A candidate may make one (1) appointment with the

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Employment Testing Division of the Human Resources Department ~~and to~~ review the scoring within five (5) business days following the official announcement of scores.

- (3) During the scoring review period, ~~candidate~~ candidate may compare ~~their~~ his or her answer sheets with a template of the correct answers. ~~The keyed copy of the exam will be available for review during the scoring review period.~~
- (4) Following the scoring review period, a list of those candidates eligible to compete in the assessment center process, if applicable, ~~will be~~ is posted.

C. Post Assessment Review

Candidates may schedule one (1) post-assessment review by making an appointment with the Employment Testing Division of the Human Resources Department.

D. Appeal of Scoring

- (1) A candidate may appeal any ~~alleged~~ math or scoring errors in the computation of the final promotional examination score. ~~An appeal~~ Appeal alleging math or scoring errors ~~shall be~~ is submitted in writing to the Employment Testing Division of the Human Resources Department no later than five (5) business days after the date the ~~candidate~~ candidate is notified of ~~his or her~~ individual scores.
- (2) The Employment Testing Division of the Human Resources Department ~~shall investigate~~ investigates the alleged math or scoring error identified in the appeal. In the event that a math or scoring error ~~is determined to have~~ occurred, a ~~correction will be~~ corrected score is applied equally to all candidates impacted by the error. ~~If any such corrected score would result in a change to the rank order of the promotional eligibility list, the Chief of Police will be notified and the Employment Testing Division of the Human Resources Department will create~~ creates a revised list based on the corrected scores.
- (3) The promotional eligibility list ~~will not be~~ considered final until the five (5) business days appeal period is completed and any confirmed errors are corrected.

20. ISSUES NOT SUBJECT TO CITY APPEAL

The following issues cannot be appealed by a candidate with the City:

- (1) ~~the~~ (1) the minimum requirements for the job classification;
- (2) ~~the~~ (2) the prerequisites for entering the promotional process;
- (3) ~~final~~ (3) final scores from any components of the promotional process.

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- (4) ~~\_\_\_\_\_~~ (4) final combined scored promotional examination scores;
- (5) ~~\_\_\_\_\_~~ (5) post-assessment review feedback from assessors cannot be used to appeal assessment center scores or final combined promotional examination scores

21. ELIGIBILITY LISTS FOR PROMOTION

A. For placement on the promotional eligibility list a candidate must achieve a final combined promotional score of seventy percent (70%) or greater.

~~Candidates~~  
 (1) ~~A candidate who participated in a promotional process but did not attain a final combined promotional score of seventy percent (70%) or greater must retest in a future promotional process to be considered for promotion.~~

(2) ~~A final combined candidate who achieves a promotional score of seventy percent (70%) does not guarantee automatic placement and removed from eligibility for just cause will be placed on the promotional eligibility list.~~

B. A promotional eligibility list in order of highest-attained scores will be compiled by the Human Resources Department and provided to the Chief of Police.

(1) Seniority, as defined in the APD collective bargaining agreement, ~~will be~~ used for list placement only in the event of a tie.

(2) ~~In accordance with~~ the criteria set forth in Section 9 (Preparation and Administration of the Promotional Process), based on the number of anticipated vacancies and promotions for the rank being tested as stated in the initial official announcement, the Human Resources Department ~~will prepare~~ a promotional eligibility list consisting of the candidates in order of scoring, which list ~~shall~~ include the candidates with the highest combined final scores, provided that no ~~candidate~~ candidate with a score of less than seventy percent (70%) ~~will be~~ placed on the promotional eligibility list.

(3) The Chief of Police ~~will select~~ candidates for promotion to Sergeant and Lieutenant.

a) In selecting candidates for promotion, the Chief of Police may apply the "rule of three" to the promotional eligibility list.

i) The Chief of Police may promote any candidate to the position of Sergeant or Lieutenant who scores in the top

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- three (3) slots of the respective promotional eligibility list.
- ii. Once the selection ~~has been~~ made, the next rank-ordered name on the promotional eligibility list ~~will advance into~~ advances to the top three.
  - iii. The top three (3) candidates ~~will be~~ considered each time a promotion is made, regardless of their final scores.
  - iv. ~~Candidates~~ A candidate on the list who ~~may have been~~ passed over by the application of the "rule of three" ~~will retain their~~ retains his or her relative ~~position~~ position on the list until promoted or removed ~~as a condition of a disciplinary action from the list due to discipline~~.
- b) ~~Any~~ Any serious disciplinary infractions ~~can be~~ is sufficient cause for the Chief of Police to remove a candidate from a promotional eligibility list. For the purposes of this subsection, serious discipline means a sustained finding of a violation of any of the following: Insubordination; Arrests or ~~criminal investigations that include reasonable evidence implicating the Candidate where the Candidate has a personal attachment;~~ Associating with persons of ill repute; Unauthorized weapons and ammunition; Failure to keep police business ~~confidential;~~ Accessing any information system(s) which contains or may contain criminal history or personal information for reasons not related to official purposes and then disseminating the information to another party; Untruthfulness; ~~Fraternalism as defined as prohibited by the APD Code of Conduct;~~ Arrest or citation for criminal conduct, either felony or misdemeanor ~~involving moral turpitude~~ (other than minor traffic violations); Use of ~~official position to affect the outcome in a civil case~~ case where personally involved; Violation of the City's Substance Abuse Policy, defined in Section 1100 of City Personnel Rules and Regulations; Any act of violence by a Candidate against another employee in the City; Excessive use of force; Theft; Refusal to testify; Cheating on employment examinations; Giving ~~unlawful~~ unlawful assistance to suspect; or any act or omission of such an egregious nature that the Candidate is rendered ineffective in his or her position and/or the act or omission would tend to bring the Department into public ~~discredit or disrepute~~. In any such instance, the removal ~~shall be~~ is an element of the imposed discipline.
- c) Sworn personnel on an approved leave of absence without pay will not be promoted until their return to regular duty.

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Comment [HSM11]: Change made on 4/7/17 - change made to DM's revision comment

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22. SUSPENSION OR REMOVAL FROM PROMOTIONAL ELIGIBILITY LIST

~~A~~ ~~A~~ A candidate who is currently on a Promotional Eligibility List and ~~is~~ the subject of an active criminal investigation, ~~or~~ federal or state civil rights investigation, as defined in Section 14(A) of this policy or ~~is the subject of a formal administrative investigation under investigation as defined under "Definitions", Section YY,~~ will be temporarily suspended from the Promotional Eligibility List pending the results of such investigation.

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Comment [GK13]: Added on 4/7/17 pursuant to the DC's resolution comment.

~~B~~ ~~B~~ The candidate ~~shall be~~ notified in writing that he/ or she is the subject of such an investigation and of the temporary suspension from the Promotional Eligibility List. The candidate's eligibility ~~shall~~ ~~only be~~ temporarily suspended until disposition of the case under investigation. Depending on the disposition of the investigation, the candidate's eligibility may be permanently removed from the Promotional Eligibility List.

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~~C~~ ~~C~~ Nothing shall prevent the Chief of Police ~~from permanently removing~~ ~~may remove~~ a candidate's name from the current ~~existing~~ Promotional Eligibility List for just cause, as defined in this policy.

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~~In the event the Chief of Police ~~can permanently~~ intends to rely on the just cause provisions definition of this SOPB to remove a candidate from the current Promotional Eligibility List, the Chief of Police will notify the candidate of the proposed removal and describe with particularity why the removal is contemplated. Such notification shall be provided to the candidate for promotion in writing.~~

Comment [HSM14]: Added on 4/7/17 pursuant to the DC's resolution comment.

~~The Chief of Police will allow the candidate for just cause for any incident dating back five (5) years from promotion to respond in writing within ten calendar days of the date of the Chief of Police's written notification. Any such response shall be made directly to the Chief's Office.~~

Comment [HSM15]: Added on 4/7/17 pursuant to the DC's resolution comment.

~~(4) The Chief of Police will consider the candidate's written examination response together with the totality of the circumstances the nature of the misconduct, the frequency of the candidate's discipline occurring within two years from the date of the test, the candidate's commitment or lack of commitment to principles of Constitutional and community policing, and whether the public interest is served by removing or retaining the candidate on the Promotional List.~~

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~~(3) Ordinarily, only incidents dating back five (5) years from the date of the written exam for the corresponding promotional process will be considered. However,~~

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~~the Chief of Police, at his or her discretion, may consider any disciplinary action throughout the candidate's career, if the underlying action is egregious or implicates a public safety concern.~~

~~D. Notice of the Chief of Police's final determination will be provided to the candidate within seven calendar days of the receipt of the candidate's written rebuttal.~~

~~D. If any disciplinary action for just cause is imposed by a superior officer other than the Chief of Police upon a candidate currently on a promotional list, the superior officer will notify the Chief of Police of said disciplinary action in writing. The Chief of Police shall review the disciplinary action to determine if the candidate's actions indicate just cause to be removed from the promotional eligibility list.~~

~~E. If a candidate is permanently removed from a current eligibility list the candidate will receive notification in writing. Such notification shall contain a description of why the candidate is being removed from the current list with sufficient detail to allow the candidate to respond. The candidate will be given the opportunity to rebut the decision in writing within ten (10) calendar days from the date of notification. The Chief of Police will provide a written response to the candidate with a final determination within seven (7) calendar days from the date the candidate submits a written rebuttal.~~

**23. PROMOTIONAL PROCESS FOR POLICE COMMANDER**

~~A. The Chief of Police will use an evaluation process to select officers from the rank of Lieutenant for promotion to Police Commander.~~

~~B. The process may include includes a structured oral interview, a written examination, an assessment center or other process as determined by the Chief of Police and in with concurrence with from the Director of Human Resources prior to the initiation of the process.~~

~~C. Police Commanders are appointed by the Chief of Police with the concurrence of the City's Chief Administrative Officer.~~

**24. PROMOTIONAL PROCESS FOR MAJOR**

~~A. The Chief of Police will use an evaluation process to select officers from the rank of Police Commander for promotion to Major.~~

~~B. The process may include a structured oral interview, a written examination, an assessment center or other process as determined by the Chief of Police and in concurrence with the Director of Human Resources prior to the initiation of the process.~~

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C. Majors are appointed by the Chief of Police with the concurrence of the City's Chief Administrative Officer.

25. **PROMOTIONAL PROCESS FOR DEPUTY CHIEF**

A. The Chief of Police will use an evaluation process to select officers from the rank of Police Commander for promotion to Major.

B. The process includes an oral interview and a review of the candidate's Department and Internal Affairs file with concurrence from the Director of Human Resources prior to the initiation of the process.

C. Majors are appointed by the Chief of Police with the concurrence of the City's Chief Administrative Officer.

26. **PROMOTIONAL PROCESS FOR DEPUTY CHIEF**

A. The Chief of Police uses an evaluation process to select officers from the rank of Police Commander or Major for promotion to Deputy Chief.

B. The process may include a structured oral interview, a written examination, an assessment center or other process as determined by the Chief of Police and a review of the candidate's Department and Internal Affairs file with concurrence with the Director of Human Resources prior to the initiation of the process.

C. Deputy Chiefs are appointed by the Chief of Police with the concurrence of the City's Chief Administrative Officer.

27. **POST-PROMOTIONAL PROCESS REQUIREMENTS FOR SERGEANTS AND LIEUTENANTS**

Candidates who are placed on a promotional list must complete and pass all sections of the Post-Promotional Process Education Requirements.

A. Candidates who are placed on a promotional list for Sergeant are required to satisfactorily complete a mandatory supervisors' course approved by the APD Training Academy.

B. Candidates who are placed on a promotional list for Lieutenant will be required to satisfactorily complete a department leadership course approved by the APD Training Academy, as such appropriate courses become available.

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HUMAN RESOURCES DEPARTMENT  
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Attachment "A"

~~C~~ ~~C~~ Promoted Sergeants and Lieutenants will enter the FTO and Evaluation Program. These ~~\_\_\_\_\_~~ personnel will receive on-the-job training and must demonstrate proficiency in all aspects ~~\_\_\_\_\_~~ of the duty position.

~~D~~ ~~D~~ Candidates ~~A candidate~~ who ~~complete~~ ~~completes~~ the required courses but ~~are~~ ~~is~~ not promoted by the expiration ~~\_\_\_\_\_~~ date of a promotional eligibility list ~~does~~ not have to complete the courses again in the ~~\_\_\_\_\_~~ future if ~~they choose~~ ~~he or she chooses~~ to retest for promotion.

28. EVALUATION OF NEWLY PROMOTED SERGEANTS AND LIEUTENANTS

A. Promotions are contingent on satisfactory performance during a twelve (12) month evaluation period.

B. The twelve (12) month evaluation period is calculated from the date of promotion.

C. All newly promoted sworn personnel must be formally evaluated quarterly by their supervisors during this evaluation period using an approved departmental format or process. Failure to perform satisfactorily during the evaluation period may result in a return to the previous rank, remedial training, or a continuation of the probationary period as determined by the Chief of Police.

~~D~~ After the Chief of Police, or designee, releases the newly promoted Sergeant or Lieutenant from the twelve (12) month evaluation period, such promotions will be considered permanent and subject to performance and disciplinary requirements.

~~D~~

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Comment [HSM16]: Comment added 4/7/17 - need clarification regarding whether this is what the IM means on last comment.

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Attachment "A"

## Close this window



CPOA Analyst E14

Class Code:  
800402

Bargaining Unit: No Union

AN EQUAL OPPORTUNITY / REASONABLE ACCOMMODATION EMPLOYER

CITY OF ALBUQUERQUE  
Established Date: Jan 28, 2013  
Revision Date: Mar 15, 2017

### SALARY RANGE

\$19.88 - \$31.55 Hourly  
\$1,590.40 - \$2,524.00 Biweekly  
\$41,350.40 - \$65,624.00 Annually

#### FLSA:

Determined by Position

#### POSITION SUMMARY:

The Civilian Police Oversight Agency (CPOA) under the direction of the Police Oversight Board (POB) is authorized to investigate, review, study, audit, and make recommendations relating to the operations, policies, programs, and practices, of the Albuquerque Police Department (APD), with the goals of enhancing the effectiveness of the police department, increasing public safety, protecting civil liberties and civil rights, and increasing the public's confidence.

CPOA Analyst provides quantitative analyses relating to selected operations, policies, programs, and practices of the APD. Uses data-driven approaches working with POB and CPOA Investigative units, interpret and analyze quantitative data using sound statistical methodologies in order to support the Board's development of policies and recommendations for reforms related to APD.

*Job descriptions are intended to present a general list of tasks/duties performed by employees within this job classification. Job Descriptions are not intended to reflect all duties performed within the job.*

#### SUPERVISION RECEIVED AND EXERCISED:

Receive direction and supervision from the CPOA Executive Director.

## Attachment "B"

May exercise technical and functional lead over clerical staff.

**ESSENTIAL AND SUPPLEMENTAL FUNCTIONS:**

**ESSENTIAL FUNCTIONS:** (Essential functions may include, but are not limited to the functions listed below)

1. Perform a variety of police activity analysis activities, including but not limited to Use of Force and misconduct; develop and prepare charts, graphs, reports, data bases, maps, and related materials in order to track and present findings related to police activity.
2. Create, maintain records and develop reports concerning police activity analysis; maintain records for in-house statistics; maintain and file police activity analysis and management reports; prepare statistical reports as required. Submit monthly data, statistical, and financial reports to Executive Director for submission to the Police Oversight Board.
3. Oversee the collection, collation, analysis and dissemination of a variety of documents to assess and determine police activity trends.
4. Perform a variety of office duties including typing, filing and entering information into the computer.
5. Provide police activity information to Executive Director, the Police Oversight Board and others; respond to questions and inquiries.
6. Prepare and present necessary correspondence and reports.
7. Maintain awareness of new developments in the field of police activity and police oversight analysis; incorporate new developments as appropriate into programs.
8. Attend Police Oversight Board and related meetings.

**SUPPLEMENTAL FUNCTIONS:**

1. Perform other duties and responsibilities as required.
2. Attend training as required.

**MINIMUM EDUCATION AND EXPERIENCE REQUIREMENTS:**

*Related education and experience may be interchangeable on a year for year basis.*

Bachelor's degree from an accredited college or university in criminal justice, public administration, mathematics/statistics and/or a related field, plus three (3) years of analysis and research experience.

**PREFERRED KNOWLEDGE:**

- Operations, services and activities of analysis programs, including Excel and/or Tableau programs
- Operation of data base programs
- Principles and practices of program development and implementation
- Principles of data collection and analysis

**Attachment "B"**

- Recent developments, current literature and information related to public safety activity analysis
- Principles, practices, methodologies and techniques of public activity analysis and prevention, law enforcement and police records processing
- Modern office equipment including computers and all Microsoft Office programs
- Pertinent Federal, State and local laws, codes and safety regulations

**PREFERRED SKILLS AND ABILITY:**

- Coordinate police activity analysis support activities
- Perform statistical research and analysis
- Recommend and implement goals and objectives for police activity analysis and research
- Interpret, explain and suggest changes for policies and procedures of the police department, CPOA and Police Oversight Board
- Operate office equipment including computers and supporting word processing and spreadsheet applications
- Respond to requests and inquiries from CPOA and Police Oversight Board, the City Council, the Mayor's Office and the general public
- Strong communication skills and be adept at conveying complex data and statistical information to POB, CPOA staff, and to lay audiences clearly and concisely. This communication includes periodic reporting to the Citizens of Albuquerque, the Mayor, the City Council, and U.S. Department of Justice
- Perform the essential functions of the job with or without reasonable accommodation
- Establish and maintain effective working relationships with those contacted in the course of work including the general public

**WORKING CONDITIONS:**

**Environmental:**  
Office environment.

**Physical:**  
Essential and supplemental functions may require maintaining physical condition necessary for sitting for prolonged periods of time.

**Attachment "B"**

**PART 1: CIVILIAN POLICE OVERSIGHT AGENCY**

**§ 9-4-1-1 SHORT TITLE.**

Sections 9-4-1-1 through 9-4-1-14 may be cited as the Police Oversight Ordinance. (Ord. 2014-019)

**§ 9-4-1-2 PURPOSE.**

The purpose of §§ 9-4-1-1 through 9-4-1-14 is to:

- (A) Foster and perpetuate policing policies and practices that effectively maintain social order and which at the same time foster mutual trust and cooperation between police and civilians;
- (B) Ensure that the civilian police oversight body functions as independently as possible from the executive and legislative branches of government of the City of Albuquerque;
- (C) Provide civilians and police officers a fair and impartial system for the investigations and determinations on civilian police complaints;
- (D) Gather and analyze data on trends and potential issues concerning police conduct and practices and the related impacts on the community and individuals; and
- (E) Provide policy guidance to the City Council, the Mayor and the Chief of Police.

(Ord. 2014-019)

**§ 9-4-1-3 LEGISLATIVE FINDINGS.**

(F) The City of Albuquerque deserves a highly professional well trained Police Department; however, an effective oversight function has not yet evolved to the satisfaction of the community's needs.

(G) In 1996 the City Council initiated a process to independently review the City's mechanisms of police oversight since the system had not been independently evaluated since 1988. As a result of that process, the City Council abolished the then existing Public Safety Advisory Board, and in lieu thereof established the current Police Oversight Commission (POC).

(H) In 2013 the City Council initiated a new process aimed at evaluating potential improvements to the POC and its processes by establishing an Ad Hoc Police Oversight Task Force (POTF). The POTF evaluated the City's current system, studied oversight options, held three Town Hall Meetings to receive input from the public, and presented their final recommendations.

(I) On April 10, 2014, the City also received findings from the United States Department of Justice that in part concluded that the City's external oversight system contributed to overall systemic problems with the Police Department's use of force in encounters with civilians.

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**Attachment "C"**

(J) The Council understands that a properly conceived and functioning police oversight system is necessary to promote accountability of the police officers and protect the rights of civilians, and finds that adopting the recommendations of the POTF will advance these goals and will help respond to the shortcomings identified by the Department of Justice,

(K) The Council hereby abolishes the POC and replaces it with a Civilian Police Oversight Agency as prescribed by this Article. (Ord. 2014-019)

#### § 9-4-1-4 CIVILIAN POLICE OVERSIGHT AGENCY.

There is hereby created a Civilian Police Oversight Agency (the "CPOA") as an independent agency of City Government, not part of either the City Administration or City Council that consists of a Police Oversight Board (the "POB") and an Administrative Office led by the CPOA Executive Director. In addition to any other duties, the Administrative Office, through the Executive Director and staff, shall investigate all civilian complaints relating to police<sup>1</sup> conduct, monitor and report on police<sup>2</sup> internal affairs matters, provide staffing to the POB, and manage the day to day operations of the CPOA. The POB shall provide policy guidance for, and civilian oversight of the Albuquerque Police<sup>3</sup> Department and review and approve or amend the findings and conclusions of all investigations completed by the Administrative Office.

(A) *Independence.* The CPOA is independent of the Mayor's Office, the City Council, and the Albuquerque Police<sup>4</sup> Department with respect to the performance of its oversight role and duties under § § 9-4-1-1 through 9-4-1-14.

(1) *Facility Location.* The CPOA 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.

(2) *Budget.* The CPOA shall have a dedicated and independent source of funding equal to, at a minimum, 1/2% of APD's annual operation budget, administer its own budget and supervise its own staff in compliance with the City's Merit Ordinance and contractual services policies and procedures. The CPOA shall recommend and propose its budget to the Mayor and City Council during the City's budget process to carry out the powers and duties under § § 9-4-1-1 through 9-4-1-14, including the funding for staff, and all necessary operating expenses.

(3) *Professional Legal Services.* The CPOA may retain or employ independent legal counsel on a contractual basis to advise and represent the CPOA. If so retained, the CPOA's legal counsel shall represent the CPOA in the courts, and shall advise the CPOA as to any legal matters relating to § § 9-4-1-1 through 9-4-1-14 and the CPOA's duties, responsibilities, and procedures except for CPOA personnel matters which shall remain under the authority of the City Attorney's Office.

(4) *Applicability of City Policies and Ordinances.* The CPOA shall comply with all City ordinances and policies dealing with administrative functions including but not limited to those dealing with personnel, the merit system, and procurements.

(B) *Staff.* The CPOA shall employ such staff as necessary to carry out its functions as prescribed by this Article, including but not limited to an executive director, professional investigative staff and other staff as may be necessary, subject to budget sufficiency and City personnel policies and procedures.

(C) *Responsibilities.* The Civilian Police Oversight Agency is responsible for civilian police oversight and has the following powers and duties:

## Attachment "C"

(5) *Community Outreach.* The CPOA shall develop, implement, and from time to time amend as necessary, a program of community outreach aimed at soliciting public input from the broadest segment of the community in terms of geography, culture, ethnicity, and socio-economics. The CPOA shall employ or designate a full time staff member within the Administrative Office dedicated to community outreach efforts. The CPOA shall report its community outreach efforts to the City Council on an annual basis.

(6) *Promotion of Accountability.* The CPOA shall promote a spirit of accountability and communication between the civilians and the Albuquerque Police<sup>5</sup> Department while improving community relations and enhancing public confidence.

(7) *Investigations.* The Administrative Office shall independently investigate all civilian complaints; shall audit and monitor all incidences of use of force by police<sup>6</sup> and all matters under investigation by APD's Internal Affairs (IA) or other APD personnel tasked with conducting administrative investigations related to a use of force incident; and shall prepare proposed findings and recommendations on all officer involved shootings and serious uses of force as defined by Article III, Paragraph 12, Subsection (qq) of the court-approved DOJ Settlement Agreement with the City of Albuquerque ("Serious Uses of Force").

(a) Where an officer has engaged in conduct that may reasonably lead to a criminal charge against the officer, IA and the CPOA have a shared interest in exercising care to avoid interfering with the criminal process while simultaneously maintaining the integrity of the disciplinary process for officers. Consistent with this shared interest, IA and the CPOA will regularly confer and take reasonable steps to coordinate the handling of investigations into matters that reasonably may lead to a criminal charge against an officer. Before taking action related to a serious use of force or officer involved shooting, the Director shall confer with the relevant prosecuting agency and/or federal law enforcement agency to assess the likelihood of an officer being criminally prosecuted based on the incident. The Director may delay or decline to proceed with any action related to a serious use of force or officer involved shooting until completion of the criminal investigation unless, after consultation with the prosecuting agency, the Director determines that proceeding is appropriate and will not compromise a criminal investigation. If the Director seeks to proceed with investigating or presenting to the POB a serious use of force or officer involved shooting despite a prosecuting agency or federal law enforcement agency indicating that doing so would interfere with a criminal investigation, the Director may proceed only after obtaining approval to do so through a 2/3 vote of the POB. The POB shall provide notice of any such vote permitting the Director to proceed in such circumstances to APD and the police officer involved.

(b) APD<sup>7</sup> shall provide POB members, the Director, and CPOA staff with reasonable access to APD premises, files, documents, reports and other materials that are reasonably necessary for the agency to perform thorough, independent investigations of civilian complaints and reviews of serious uses of force and officer-involved shootings. However, any material protected from disclosure by law shall remain within the custody and control of APD at all times and will be handled in accordance with the applicable legal restrictions.

(a) All complaints filed by police officers will be investigated by Internal Affairs. Internal Affairs<sup>8</sup> shall provide a weekly update to the Director on all open internal investigations. The Director's investigation report and findings shall indicate whether within the past year there were any IA investigations or supervisor generated complaints against the officer(s) involved in the incident being investigated or that are otherwise relevant to the subject matter of the investigation, the general nature of the prior investigations or complaints, and whether they resulted in any discipline. Redacted personnel records including those of the Internal Affairs Unit shall be made available to the POB on demand.

(b) Information that is covered by *Garrity* will be treated as confidential to the extent permitted by law and may only be reviewed by members of the POB by application in writing, and by majority vote of the POB. If the POB votes to review *Garrity* material, members of the POB may only do so on APD<sup>9</sup> property. The POB may

## Attachment "C"

not remove or make copies of such statements. If the POB desires to discuss the specific content of statements protected by *Garrity*, such discussion will occur only in closed session as permitted under the New Mexico Open Meetings Act, NMSA 1978, § 10-15-1(H)(2). The POB shall only summarize conclusions reached after a review of a *Garrity* statement, but shall not disclose the statement. The POB shall maintain the confidentiality of any *Garrity* material or records that are made confidential to the extent permitted by law and is subject to the same penalties as the custodian of those records for violating confidentiality requirements. In addition to any other penalty, any POB member or other person who violates the confidentiality provisions of this section shall be removed from the POB, and shall be subject to prosecution for a misdemeanor subject to the penalty provisions set forth in § 1-1-99. This provision shall apply to all aspects of the POB's work.

(c) *Mediation First*<sup>10</sup>. Whenever possible, and as further described in § 9-4-1-6(C)(3) of this ordinance, mediation should be the first option for resolution of civilian police complaints.

(d) *POB Audits; Access to Files*<sup>11</sup>. The POB may, by majority vote, perform an annual audit, or direct that an audit be performed, on a random sample of up to 10% of individual civilian police complaint investigations involving allegations of use of force, or in exceptional circumstances, for the purpose of promoting an enhanced measure of quality assurance in the most challenging cases the POB may, by a vote of two-thirds (2/3) of the members of the POB, perform an audit, or direct that an audit be performed, on any individual Citizen Police Complaint Investigation completed by the Administrative Office. For purposes of its audit function, the POB shall have full access to investigation files and may subpoena such documents and witnesses as relevant to its audit function.

(e) *Disciplinary Recommendations*<sup>12</sup>. The POB may, in its discretion, recommend officer discipline from the Chart of Sanctions for investigations that result in sustained civilian police complaints; and may also recommend discipline based on any findings that result from review of internal affairs investigations of officer involved shootings and serious uses of force. Imposition of the recommended discipline is at the discretion of the Chief of Police, but if the Chief of Police does not follow the disciplinary recommendation of the POB, the Chief of Police shall respond in writing, within 30 days, with the reason as to why the recommended discipline was not imposed.

(4) *Reports to Mayor & Council*. The CPOA shall submit a semi-annual written report to the Mayor and City Council according to § 9-4-1-10 herein. The CPOA Executive Director shall provide a quarterly oral report to the City Council at a regular or special meeting.

(8) *CPOA Policy Recommendations*. The CPOA shall engage in a long-term planning process through which it identifies major problems or trends, evaluates the efficacy of existing law enforcement practices in dealing with the same, and establishes a program of resulting policy suggestions and studies each year. The CPOA's policy recommendation process shall be as follows:

(f) The POB shall review and analyze policy suggestions, analysis, studies, and trend data collected or developed by the Administrative Office, and shall by majority vote recommend policies relating to training, programs and procedures or other matters relating to APD<sup>13</sup>. The POB's policy recommendations shall be submitted to APD and to the City Council. The POB shall dedicate a majority (more than 50%) of its time to the functions described in this subsection.

(g) The Chief of Police<sup>14</sup> shall respond in writing within 45 days to any such policy recommendations by the CPOA, and indicate whether they will be followed through standard operating procedures or should be adopted as policy by the City Council, or explain any reasons why such policy recommendations will not be followed or should not be adopted.(c) Within six months of its appointment, the POB shall draft and

## Attachment "C"

Civilian Police Oversight Agency  
Police Oversight Board – Policy & Procedure Subcommittee  
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approve policies, rules and procedures that ensure that the POB shall dedicate a majority of its time to the functions described in this subsection.

(Ord. 2014-019; Am. Ord. 2015-006; Am. Ord. 2016-013)

#### § 9-4-1-5 THE CPOA POLICE OVERSIGHT BOARD.

(A) *Composition.* The POB shall be composed of nine at-large members who broadly represent the diversity and demographics of the City by way of, including but not limited to, cultural, gender and geographic diversity; and who are representative of the stakeholders of the police oversight process, and who reside within the City of Albuquerque.

(B) *Qualifications.* In addition to the composition standards set forth above, the following are the minimum qualifications for members of the POB:

- (9) Have not been employed by law enforcement<sup>15</sup> for one year prior to appointment; and
- (10) Successfully pass a background check<sup>16</sup>; and
- (11) Personal history lacking any pattern of unsubstantiated complaints against APD<sup>17</sup>; and
- (12) A demonstrated ability to engage in mature, impartial decision making; and
- (13) A commitment to transparency and impartial decision making; and
- (14) Residency within the City of Albuquerque.

(C) *Appointment of Members.* The City Council shall establish a well-publicized, fair and equitable application process for appointment to the POB. The City Council, through its staff, shall accept applications from prospective POB members. Staff shall formulate recommendations for appointments based on evaluation of the qualification criteria listed in subsections (A) and (B) above and submit recommendations for appointment(s) to the City Council for its approval. If a member is eligible for reappointment, staff may suggest reappointment of that member without a formal application process and the City Council may reappoint accordingly.

(D) *Membership Term.* POB members shall serve a maximum of two three-year terms on a staggered basis so that no more than five of the members are eligible for reappointment or replacement each year.

(E) *Removal of Members.* Any POB member may be removed for cause by a two-thirds majority vote of either the POB itself or the City Council. The appointment of any member 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 POB 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 requiring an appointment for the length of the unexpired term.

(F) *Orientation and Training.* Upon appointment or reappointment POB members shall complete an orientation and training program consisting of the following:

- (1) *Required Orientation.* Prior to participation in any meeting of the POB, a newly appointed member must first:
  - (h) Be trained by the CPOA staff or CPOA legal counsel on CPOA and APD rules, policies, and procedures; and

## Attachment "C"

(i) Attend at least one POB meeting as an observer (except initial appointees).

(2) *Required Training.* Each POB member shall complete a training program within the first six months of the member's appointment that consists, at a minimum, of the following:

(j) Completion of those portions of the APD<sup>18</sup> Civilian Police Academy that APD determines are necessary for the POB to have a sound understanding of the Department, its policies, and the work officers perform - for purposes of this training requirement, APD shall identify those portions of the standard APD Civilian Police Academy Program that are optional for POB members and shall make other aspects of the program available for POB members to complete independently;

(k) Civil Rights training, including the Fourth Amendment right to be free from unreasonable searches and seizures, including unreasonable use of force;

(l) At least two APD<sup>19</sup> ride-alongs;

(m) Annual firearms simulation training<sup>20</sup>;

(e) Internal Affairs training<sup>21</sup>;

(n) Training provided to APD officers on use of force<sup>22</sup>, including a review and familiarization with all APD policies relating to use of force, and including policies related to APD's internal review of force incidents;

(o) Equity and Cultural Sensitivity training;

(p) Training on the 2014 DOJ Settlement Agreement with the City of Albuquerque (or any subsequent agreements), and Findings Letter of April 10, 2014 (or any subsequent findings letters);

(q) Training on this Police Oversight Ordinance;

(r) Training on state and local laws regarding public meetings and the conduct of public officials; and

(s) A briefing that identifies and explains the curriculum of all training received or to be received by APD<sup>23</sup> officers, including any outside training not provided by the city.

(3) *Required On-Going Training.* POB members shall be provided with eight hours of annual training on any changes in law, policy, or training in the areas outlined under subsection (2) above, as well as developments in the implementation of the 2014 DOJ Settlement Agreement (or any subsequent agreements) until such time as the terms of the agreement are satisfied. POB members shall also participate in at least two police ride-alongs for every six-months of service on the POB.

(1) *Recommended Training.* POB members are encouraged to attend conferences and workshops relating to police oversight, such as the annual NACOLE conference at city expense depending on budget availability.

(G) *Chair.* The POB 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 immediately succeed himself or herself in the same office. Officers shall be elected in the month of March of each calendar year or upon vacancy of an office to fill the remaining term.

(A) *Subcommittees.* The POB may appoint such subcommittees as are deemed necessary or desirable for the purposes of § 9-4-1 through 9-4-14, provided that, membership on such subcommittees shall be limited to POB members.

## Attachment "C"

(B) *Meetings.* The POB shall conduct regularly scheduled public meetings in compliance with the New Mexico Open Meetings Act, with a prepared agenda that is distributed in advance to the Mayor, City Council, Police Chief, and City Attorney. Each POB meeting will begin with public comments. 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 POB shall be videotaped and aired on the appropriate government access channel; however, there is no requirement for providing live television coverage.

1. *Public Comment.* The POB shall allow general public comment at each of its meetings, and the POB shall also allow comment on each of its agenda items other than Citizen Police Complaints. The complainant or complainant's authorized representative in a Citizen Police Complaint will be provided with a minimum of five minutes to address the POB relating to the complaint and investigation.

(Ord. 2014-019; Am. Ord. 2015-006; Am. Ord. 2016-013)

**§ 9-4-1-6 CPOA ADMINISTRATIVE OFFICE.**

(C) The staff and administration of the CPOA shall be directed by the CPOA Executive Director (the "Director").

(D) In addition to any other duties expressed or implied by this ordinance the Director shall:

(2) Independently investigate, or cause to be investigated, all civilian police complaints and prepare findings and recommendations for review by the POB;

(3) Review and monitor all Internal Affairs investigations and other administrative investigations related to officer involved shooting investigations and serious uses of force investigations. The Director shall prepare and submit findings and recommendations to the POB relating to officer involved shootings and serious uses of force, and shall report on general trends and issues identified through monitoring or auditing of Internal Affairs;

(4) Provide staffing to the Police Oversight Board and ensure that the duties and responsibilities of the CPOA are executed in an efficient manner, and manage the day to day operations of the CPOA.

(C) The Administrative Office will receive and process all civilian complaints directed against the Albuquerque Police Department<sup>24</sup> and any of its officers. The Director shall independently investigate and make findings and recommendations for review by the POB for such civilian complaints, or assign them for independent investigation by CPOA staff or an outside independent investigator. If assigned to staff or an outside investigator, the Director shall oversee, monitor and review all such investigations and findings for each. All findings relating to civilian complaints, officer involved shootings, and serious uses of force shall be forwarded to the POB for its review and approval. For all investigations, the Director shall make recommendations and give advice regarding Police Department policies and procedures to the POB as the Director deems advisable.

(15) Investigation of all civilian complaints filed with the CPOA shall begin immediately after complaints are filed and proceed as expeditiously as possible, and if an investigation exceeds a timeframe of nine months the Director must report the reasons to the POB; and

(16) All civilian complaints filed with other offices within the city authorized to accept civilian complaints, including the Police Department, shall be immediately referred<sup>25</sup> to the Director for investigation; and

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(17) Mediation should be the first option for resolution of civilian police complaints. Mediators should be independent of the CPOA, APD<sup>26</sup>, and the City, and should not be former officers or employees of APD. At the discretion of the Director an impartial system of mediation should be considered appropriate for certain complaints. If all parties involved reach an agreement, the mediation is considered successful and no investigation will occur; and

(18) The Director shall monitor all claims of officer involved shootings and serious uses of force. No APD related settlements<sup>27</sup> in excess of \$25,000 shall be made for claims without the knowledge of the Director. The Director shall be an ex-officio member of the Claims Review Board; and

(19) All investigations shall be thorough, objective, fair, impartial, and free from political influence; and

(20) The Director shall maintain and compile all information necessary to satisfy the CPOA's semi-annual written reporting requirements in § 9-4-1-10; and

(21) If at any point during an investigation the investigator determines that there may have been criminal conduct<sup>28</sup> by any APD personnel, the investigator shall immediately notify the APD Internal Affairs Bureau commanding officer and transfer the administrative investigation to the Internal Affairs Bureau. The CPOA may review the IA investigation and continue processing the complaint at any time upon the conclusion of any criminal proceeding.

(D) The Director shall have access to any Police Department<sup>29</sup> information or documents that are relevant to a civilian's complaint, or to an issue which is ongoing at the CPOA.

(E) The Administrative Office shall staff, coordinate and provide technical support for all scheduled POB meetings, publicize all findings and reports, recommendations, and/or suggested policy changes.

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(F) The Director shall play an active public role in the community, and whenever possible, provide appropriate outreach to the community, publicize the civilian complaint process, and identify locations within the community that are suitable for civilians to file complaints in a non-police environment.

(L) The Director shall be provided the necessary professional and/or clerical employees for the effective staffing of the Administrative Office, and shall prescribe the duties of these staff members. Such professional and clerical employees will be classified city employees. All CPOA staff with investigative duties shall be professional investigators trained in professional investigation techniques and practices.

(M) The Director shall report directly to the POB and lead the Administrative Office; independently investigate or supervise all investigations of civilian complaints, audit all IA investigations of complaints, recommend and participate in mediation of certain complaints, and supervise all CPOA staff.

(Ord. 2014-019; Am. Ord. 2016-013)

#### § 9-4-1-7 CPOA DIRECTOR QUALIFICATIONS, SELECTION, RETENTION AND EVALUATION.

(A) Qualifications for the position of Director shall minimally include the requirement of a law degree and experience in criminal investigations.

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(B) The Director will be a full-time contractual city employee to be selected, removed, or reviewed as follows:

(22) The POB, through CPOA staff, shall accept applications from candidates. The POB shall review the applications and interview candidates, and submit to the City Council a ranked list of the three candidates that it finds to be the best qualified to be the Director and the City Council shall appoint the Director from the three by majority vote. The POB's recommendation to Council shall be based on the candidates' integrity, capability for strong management and abilities in investigations, law, management analysis, public administration, criminal justice administration or other closely related fields.

(23) In lieu of recommending three candidates to the Council, the POB may recommend to the Council the reconfirmation of the incumbent Director. Should the Council decline to reconfirm the incumbent Director, the Council President shall notify the POB that it needs to provide the Council with three alternate candidates pursuant to the provisions of subsection (B)(1). Should the Director not be reconfirmed, the current Director may continue to serve in the same capacity until a new Director is selected and approved by the City Council. If for any reason there is a period of time during which there is no Director, the City Council may appoint a temporary Director of its choosing by a majority vote. A temporary Director shall serve in that capacity only for a period not to exceed six months.

(24) The term of the Director shall be for three years. Once confirmed, the Director may be removed only upon: 1) a recommendation of removal to the City Council by the affirmative vote of two-thirds of the members of the POB; and 2) acceptance of the POB's recommendation by a simple majority vote of the City Council.

(C) The POB shall annually review the performance of the Director taking into consideration the obligations and duties prescribed by this ordinance and the performance of the Administrative Office.

(Ord. 2014-019; Am. Ord. 2015-006)

#### § 9-4-1-8 CIVILIAN COMPLAINT PROCEDURES.

(N) 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 POB shall submit rules and regulations governing civilian complaint procedures to the City Council for approval, including rules and regulations relative to time limits, notice and other measures to insure impartial review of civilians' complaints against members of the police department. Anonymous complaints shall be accepted.

(O) In cooperation with the POB, the Mayor shall designate civilian city staff to receive written civilian complaints at various locations throughout the city. The Police Department<sup>30</sup> may also receive written complaints. The party who receives the complaint shall immediately transmit all civilian complaints for further investigation to the Director.

(P) After the investigation of a civilian complaint is completed, the Director shall analyze all relevant and material circumstances, facts and evidence gathered under the investigation. For each investigation, the Director shall prepare investigation reports with proposed findings and recommendations and submit them to the POB for its review and consideration. The Director may share any disciplinary recommendations with the Chief of Police in advance of their submission to the POB only as necessary to help ensure timeliness pursuant to any applicable personnel or union contract requirements. The POB shall review the proposed findings and recommendations, and shall by majority vote of members present: 1) approve the findings and recommendations as proposed; 2)

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approve other findings and recommendations as determined by the POB and supported by the investigation file; or 3) defer action on the matter to allow for further investigation or analysis by the Director. As part of its review, the full investigation file shall be made available to the POB. Upon approval of findings and recommendations by the POB, the Director shall prepare and submit a public record letter to the civilian complainant, with a copy to the Chief of Police, that outlines the findings and recommendations as approved. Unless a hearing is requested by the civilian complainant, within 30 days of receipt of the decision of the POB, the Chief of Police<sup>11</sup> shall notify the POB and the original civilian complainant of his or her final disciplinary decision in this matter in writing, by certified mail.

(Ord. 2014-019; Am. Ord. 2016-013)

#### § 9-4-1-9 REQUESTS FOR HEARING; APPEALS OF DISCIPLINARY DECISIONS.

*(Q) Requests for Hearing.* Any person who has filed a civilian complaint and who is dissatisfied with the findings and/or recommendations approved by the POB may request reconsideration by the POB within 30 days (inclusive of weekends and holidays) of receipt of the public record letter. The POB may grant a request for reconsideration only upon a showing by the complainant that: 1) a policy was misapplied in the evaluation of the complaint; 2) that the findings or recommendations were arbitrary, capricious or constituted an abuse of discretion, or 3) that the findings and recommendations were not consistent with the record evidence. The POB shall notify the Chief of Police of the request for hearing and hold a hearing on the matter at its next regularly scheduled meeting provided that there is a period of at least ten days between the receipt of the request for hearing and the next POB meeting. Upon close of the hearing the POB may modify or change the findings and/or recommendations of the public record letter and may make further recommendations to the Chief of Police regarding the findings and/or recommendations and any discipline imposed by the Chief of Police<sup>32</sup> or proposed by the Chief of Police. Within 20 days of receipt of the decision of the POB, the Chief of Police shall notify the POB and the original civilian complainant of his or her final disciplinary decision in this matter in writing, by certified mail.

*(R) Appeals of the Disciplinary Decision.* If any person who has filed a civilian complaint under §§ 9-4-1-1 through 9-4-1-14 is not satisfied with the final disciplinary decision of the Chief of Police or any matter relating to the Chief of Police's handling of his or her complaint, he or she may request that the Chief Administrative Officer review the complaint, the findings of the POB and the action of the Chief of Police by requesting such review in writing within 30 days (inclusive of weekends and holidays) of receipt of the Chief of Police's letter pursuant to § 9-4-1-9(A). Upon completion of his or her 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 Director, of the results of his or her review and any action taken.

(Ord. 2014-019)

#### § 9-4-1-10 REPORTS.

The CPOA shall be responsible for regularly informing the Mayor, the City Council, and the public by submitting semi-annual written reports that include but are not limited to the following information:

(S) Data relating to the number, kind and status of all complaints received including those complaints sent to mediation;

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(T) Discussion of issues of interest undertaken by the POB 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;

(U) The CPOA's findings and the Chief of Police's issuance of discipline on those findings and the ongoing disciplinary trends of the Police Department;

(V) Information on all public outreach initiatives undertaken by the POB or the Director such as speaking engagements, public safety announcements, and/or public information brochures on the oversight process;

(W) The status of the long-term planning process identifying major problems, policy suggestions, and studies as required by § 9-4-14(C)(5);

(F) Identification of any matters that may necessitate the City Council's consideration of legislative amendments to this Police Oversight Ordinance; and

(A) The amount of time that the POB dedicated to the policy activities prescribed by § 9-4-1-4(C)(5) relative to its other activities over the past quarter.

(Ord. 2014-019)

#### **§ 9-4-1-11 EVALUATION.**

Contingent upon funding, in the first six months of 2016 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.

(Ord. 2014-019)

#### **§ 9-4-1-12 SPECIAL MEETINGS.**

On the petition of 1,000 or more civilians in the City of Albuquerque filed in the Office of the City Clerk, the POB shall hold a special meeting for 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 with the POB by the City Clerk. Notice of such meeting shall be given in the same manner as notice is given for other meetings of the POB and shall comply with the State Open Meetings Act.

(Ord. 2014-019)

#### **§ 9-4-1-13 CONFIDENTIALITY.**

The POB 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 CPOA Attorney that the law permits such action, some of the details of the investigations of the Director, or the designated independent investigator, shall become

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privileged and confidential. The details of investigations should not be open to the public subject to the opinion of the CPOA Attorney and the Director. Compelled statements given to the Director, or the designated independent investigator, will not be made public. The Director may summarize conclusions reached from a compelled statement for the report to the POB and the Chief of Police, and in the public record letter sent to the complainant. Nothing in this ordinance affects the ability of APD to use a compelled statement in a disciplinary proceeding.

(Ord. 2014-019; Am. Ord. 2016-013)

**§ 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 that APD<sup>33</sup> hereby agrees and understands that its full cooperation is necessary, hereby agrees to mandate that its officers provide honest and truthful responses to all questions by the Director, CPOA staff or the designated independent investigator. If any officer refuses to answer the questions proposed to him or her by the Director, CPOA staff, or the independent investigator, he or she may be subject to termination or disciplinary action at the discretion of the Chief of Police. Compelled statements given to the Director, CPOA staff or the designated independent investigator, by a police officer will be used only for the Director's investigation and the closed session review of the investigation file by the POB, if any. The actual statement will remain confidential and will not be included in a final report. The Director may summarize conclusions reached from a compelled statement for the investigation report and in the public record letter to the complainant.

(Ord. 2014-019)

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Cross reference to APD actions

- <sup>1</sup> Civilian complaints
- <sup>2</sup> Internal affairs
- <sup>3</sup> Policy guidance
- <sup>4</sup> CPOA Independence from APD
- <sup>5</sup> APD accountability to community CPOA/POB #18
- <sup>6</sup> Use of Force CPOA/POB #4, #7
- <sup>7</sup> APD provide reasonable access
- <sup>8</sup> IA weekly update
- <sup>9</sup> Garrity material review
- <sup>10</sup> Mediation first CPOA/POB #5
- <sup>11</sup> Full Access to investigation files
- <sup>12</sup> Discipline recommendations, Chief's obligation to respond CPOA/POB #2
- <sup>13</sup> Policy recommendations CPOA/POB #6, 8,10,12,13,14,15,16,17
- <sup>14</sup> Chief obligation to respond to policy recommendations
- <sup>15</sup> Not employed by APD in last year
- <sup>16</sup> Pass background check
- <sup>17</sup> Unsubstantiated complaints against APD
- <sup>18</sup> APD Citizen Police Academy CPOA/POB #11
- <sup>19</sup> APD Ride alongs
- <sup>20</sup> Annual firearms training
- <sup>21</sup> Internal Affairs training
- <sup>22</sup> Use of force training
- <sup>23</sup> Briefing of APD training
- <sup>24</sup> Civilian complaints investigations
- <sup>25</sup> APD refer complaints to CPOA
- <sup>26</sup> Mediation CPOA/POB #3

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- <sup>27</sup> APD related settlements
  - <sup>28</sup> Criminal conduct referred to AI
  - <sup>29</sup> CPOA access to APD information
  - <sup>30</sup> Transmission of complaints
  - <sup>31</sup> Chief's obligation to notify citizen and POB of complaint disposition
  - <sup>32</sup> Chief obligation to notify appeal results
  - <sup>33</sup> APD obligation to cooperate with CPOA

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