

Aug. 6, 2014

To: Police Oversight Task Force
From: Fabrizio Bertoletti
Re. : Minority Opinion

Overall the proposed Ordinance, in my view, represents a major improvement to the current civilian oversight system in this community. However, as the member who was selected to serve on the Task Force specifically for my public sector experience I feel I must point out areas where I believe the recommendations are not implementable and/or would produce results contrary to effective civilian oversight of APD.

I offer the following for the record as a minority opinion;

- The focus of the new board, given the timing and circumstances present, should and will likely be to provide a formal monitoring mechanism to insure the effective and timely implementation of reforms at APD as mandated by the Consent Decree being negotiated with DOJ. To maintain that important role it is unnecessary and counterproductive for the POB to get involved in hearing specific complaints other than on appeal.
- It is not implementable for the POB to have access to Garrity protected information. Should that provision become law, the whole civilian oversight system will probably be challenged in court and delayed if not derailed completely.
- In the Ordinance as drafted Section 9-4-1-7 B-1 and B-2 [assigning the authority to the POB to hire and fire the RO] are in conflict with Section 9-4-1-4 A-4 [applicability with city Ordinances and policies]. In my non-legal opinion this is a direct violation of Article X of the Charter of the City of Albuquerque. In addition as a practical matter, it would create a seriously flawed working dynamic within the Agency, and potentially adversely affect the independence of complaints investigations/dispositions.