

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT BOARD

Thursday, December 13, 2018 – 5:00 PM
Vincent E. Griego Chambers, Basement Level
City/County Government Center – One Civic Plaza NW
Albuquerque, New Mexico

Members Present:

Leonard Waites, Chair
Chantal M. Galloway, Vice
Chair (late)
Joanne Fine
Dr. William Kass
Valerie St. John
Chelsea Van Deventer

Members Absent:

None

Others Present

Edward Harness, CPOA
Katrina Sigala, CPOA
Tina Gooch, Atty
Cdr. Michelle Campbell, APD
Cdr. Mark Velarde, APD
Julian Moya, City Council
Lindsay Van Meter, City Atty
Rowan Wymark, CPC

Meeting Minutes

- PO Box 1293
Albuquerque
NM 87103
www.cabq.gov
- I. Welcome and call to order.** Chair Waites called to order the regular meeting of the Police Oversight Board at 5:01p.m.
- II. Pledge of Allegiance.** Chair Waites led the meeting in the Pledge of Allegiance.
- III. Mission Statement.** Chair Waites read the Police Oversight Board's mission statement.
- IV. Approval of the Agenda.**
- a) A motion was made by Member Van Deventer to approve the agenda as written. Member Fine seconded the motion. The motion was carried by the following vote:
For: 5 – Waites, Fine, Kass, St. John, Van Deventer
- V. Public Comments.**
1. Tadeusz Niemyiski

VI. Review and Approval of Minutes. For more information about minutes from prior POB meetings, please visit our website here: <http://www.cabq.gov/cpoa/police-oversight-board/pob-agenda-meeting-minutes>

a) Approval of the Minutes from November 8, 2018

1. Copies of the draft minutes from the November 8, 2018 meeting were distributed to each member in their packets.
2. **Motion.** A motion was made by Chair Waites to approve the minutes as written. Member Van Deventer seconded the motion. The motion was carried by the following vote:

For: 5 – Waites, Fine, Kass, St. John, Van Deventer

b) Approval of the Minutes from December 4, 2018 – Special Board Meeting.

1. Copies of the draft minutes from the December 4, 2018 POB Special Board meeting were distributed to each member in their packets.
2. **Motion.** A motion was made by Member Fine to approve the minutes as written. Member Kass second the motion. The motion was carried by the following vote:

For: 5 – Waites, Fine, Kass, St. John, Van Deventer

VII. Reports from City Staff

a) APD – Commander Mark Velarde with Internal Affairs gave the following report for APD:

1. **Statistical Data.** Commander Velarde read the Statistical Date for the month of November 2018. A document titled *Police Oversight Board, APD Internal Affairs: Statistical Data for the Month of November 2018* was distributed to the POB members. (see attached)

b) SOP 1-3. The public did not submit any comments regarding SOP 1-3 with CPOA. The Board gave feedback on their own opinion regarding the SOP.

c) City Council-

1. **City Council Representative.** – Julian Moya presented his report.
2. Study Session on January 10, 2019 at 12:00pm
3. Finance and Government Operations Committee Meeting on January 14, 2019 at 5:00pm

d) Mayor's Office-

1. **Mayor's Office Representative.** – There was no one from the Mayor's Office present to give a report.

e) City Attorney-

1. **Asst. City Atty.** – Linsay Van Meter presented her report.

f) Community Policing Council

1. North Valley Chair Rowan Wymark gave a brief update of the events in her area.

g) Albuquerque Police Officer's Association

1. There was no one from APOA present to give a report.

h) Civilian Police Oversight Agency

1. **Executive Director** – Edward Harness presented his report.

******* Vice-Chair Galloway arrived at 5:22pm *******

VIII. Reports from Subcommittees

a) Community Outreach Subcommittee – Chantal Galloway-

1. Met December 4, 2018 at 10:00am
2. Discussion and review on the 2017 Annual Report
3. Next meeting January 22, 2018 at 1:00pm

b) Policy and Procedure Review Subcommittee – William Kass-

1. Met December 6, 2018 at 12:30pm
2. Update on what Policy and Procedures are being considered. (see attached)
3. Next meeting January 3, 2018 at 12:30pm

c) Case Review Subcommittee – Valerie St. John –

1. Met November 27, 2018 at 2:30pm
2. Next meeting December 18, 2018 at 11:00am

d) Personnel Subcommittee – Joanne Fine -

1. Met November 16, 2018 at 9:00am
2. Update on changes for Executive Director's contract.
3. Next meeting December 18, 2018 at 10:00am

IX. Discussion

a) New hires for APD.

1. **Motion.** A motion was made by Member Van Deventer to withdraw agenda item a). Vice-Chair Galloway seconded the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

b) 2019 POB scheduled meetings.

1. **Motion.** A motion by Member Van Deventer to approve the 2019 POB schedule. Vice-Chair Galloway seconded the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

c) 2017 Annual Report.

1. Draft has been provided to all board members and feedback was received at subcommittee meetings. Board will submit the feedback to ISR in a written format.

d) IPRA/Next Request.

1. Mrs. Gooch presented the options using Next Request and provided a copy of a joint defense agreement for the board to approve. (see attached).
2. **Motion.** Member Van Deventer motioned to adopt this new procedure Next Request to include the joint defense agreement. Member Kass second the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

e) CASA and Ordinance Training.

1. CPOA will provide possible dates for required annual training for POB members later next week.

f) Ordinance Amendments.

1. Police Oversight Board received the current draft of the Oversight Ordinance and adopted their recommendations for City Council for submission on January 7, 2019. (see attached)

X. Meeting with Counsel re: Pending Litigation or Personnel Issues:

Closed Discussion and Possible Action re: Pending Litigation or Personnel Issues

a. Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7); and

- i. Pending Litigation**
- ii. IPRA**

b. Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)

i. Executive Director Contract

1. **Motion.** Motion by Member Van Deventer to take a member by member vote to move into a closed session for the limited purpose of discussing a personnel matter. Vice-Chair Galloway seconded the motion. The motion was carried by the following vote:
2. **Roll call vote by board members.**
For: 6– Waites, Galloway, Fine, Kass, St. John, Van Deventer

---- Meeting on Personnel issues began at 7:32 p.m. and
the meeting reconvened at 8:40 p.m. ---

1. **Motion.** Member Van Deventer motioned to reconvene the POB meeting into regular session. Member Fine seconded the motion. The motion was carried by the following vote:
2. **Roll call vote by board members.**
For: 6– Waites, Galloway, Fine, Kass, St. John, Van Deventer

XI. Appeal Hearing

a) 053-18

1. **Motion.** Motion by Member St. John to move agenda item XIII to X on the agenda. Vice-Chair Galloway second the motion. The motion was carried by the following vote:
For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer
2. **Appeal.** Appeal hearing was conducted on original findings were upheld. POB recommended sustained findings for violations of APD 2-19-5 and 2-19-7.
 - i. **Closed discussion for deliberations by the POB in connection with an administrative adjudicatory proceeding pursuant to NMSA 1978, Section 10-15-1(H)(3)**
1. **Motion.** Motion by Member Van Deventer to take a member by member vote to move into a closed session for deliberation on the appeal CPC 053-18. Member St. John seconded the motion. The motion was carried by the following vote:
2. **Roll call vote by board members.**
For: 6– Waites, Galloway, Fine, Kass, St. John, Van Deventer

---- Meeting on Personnel issues began at 9:15 p.m. and
the meeting reconvened at 9:43 p.m. ---

1. **Motion.** Member Van Deventer motioned to reconvene the POB meeting into regular session. Vice-Chair Galloway seconded the motion. The motion was carried by the following vote:
2. **Roll call vote by board members.**
For: 6– Waites, Galloway, Fine, Kass, St. John, Van Deventer

3. **Motion.** Motion by Vice-Chair Galloway to sustain SOP violation 2-19-5 and 2-19-7. Member Van Deventer second the motion. The motion was carried by the following vote:

For: 4 – Galloway, Kass, St. John, Van Deventer

Against: 2 – Waites, Fine

XII. Consent Agenda Cases: The CPOA’s findings in each case listed on the consent agenda are reviewed and approved by the POB. The findings become part of the officer’s file, if applicable. Copies of the full findings letters to the citizens are located at <http://www.cabq.gov/cpoa/findings-letters/civilian-complaints-pob-findings>.

a) Administratively Closed Cases

225-18 230-18 238-18 246-18 262-18
263-18 268-18 228-17

1. **Motion.** Member Van Deventer moved to accept the administratively closed cases as presented. Member Fine seconded the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

b) Not Sustained

183-18

1. **Motion.** Member Fine moved to accept the not sustained case reviewed as presented. Vice-Chair Galloway seconded the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

c) Sustained

184-18 222-18

1. **Motion.** Member Fine moved to accept both sustained cases reviewed as presented. Member Van Deventer seconded the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

d) Unfounded/Sustained

132-18

1. **Motion.** Motion by Member Van Deventer to move CPC 132-18 to the Non-Consent Agenda. Member Fine seconded the motion. The motion was carried by the following vote:

For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

2. **Motion.** Motion by Member Van Deventer to refer back to CPOA for further investigation. Member Fine seconded the motion. The motion was carried by the following vote:

For: 4 – Galloway, Fine, St. John, Van Deventer

Against: 2 – Waites, Kass

XIII. Non-Consent Agenda

**a) Exonerated/Sustained not based on original complaint
128-18**

1. **Motion.** Motion by Member Van Deventer to defer back to Case Review Committee. Member St. John seconded the motion. The motion was carried by the following vote:

For: 4 – Galloway, Fine, St. John, Van Deventer

Against: 2 – Waites, Kass

**b) Not Sustained investigation by IA
144-18**

1. **Motion.** Motion by Member Van Deventer to approve the Not Sustained investigation by IA case presented. Member Fine seconded the motion and there was no discussion of this case. The motion was carried by the following vote:

For: 6 - Waites, Galloway, Fine, Kass, St. John, Van Deventer

XIV. Non-Concurrence Cases.

a) There was no Non-Concurrence Cases to present

XV. Serious Use of Force/Officer Involved Shooting Cases.

a) There was no Serious Use of Force/Officer Involved Shooting Cases.

XVI. POB's Review of *Garrity* Materials.

C45-2018 I-6-2017

1. **Motion.** Motion by Vice-Chair Galloway to approve C45-2018 and I-6-2017 for review. Member Fine second the motion. The motion was carried by the following vote:

b) For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

XVII. Other Business.

No other business.

XVIII. Adjournment.

- a) A motion was made by Member Kass to adjourn the meeting. Vice-Chair Galloway seconded the motion. The motion was carried by the following vote:
For: 6 – Waites, Galloway, Fine, Kass, St. John, Van Deventer

The meeting adjourned at 10:25 p.m.

DRAFT

Attachments

DRAFT

POLICE OVERSIGHT BOARD

PUBLIC COMMENT SIGN IN

DATE: 12/13/18

NAME (PLEASE PRINT)

1. Tadeusz Niemczyński

2. _____

3. _____

4. _____

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24. _____

POLICE OVERSIGHT BOARD
INTERNAL AFFAIRS
STATISTICAL DATA FOR THE MONTH OF NOVEMBER 2018

APD 911 Communications Center

Dispatched calls for Service for NOVEMBER 2018: 40,087 (decrease from OCTOBER (1,841))

INTERNAL CASES FOR THE MONTH OF NOVEMBER 2018

I's

Total Internal Cases Completed the Month of NOVEMBER: 7

Comprised of:

- **7-Internal Affairs Investigations**
- **0-Area Command Investigated case**

Internal Cases Administratively Closed: 1

Internal Cases Mediated: 0

Discipline imposed for Internal Cases NOVEMBER 2018

2: Counseling

3: Verbal Reprimand

2: Letter of Reprimand

1: Suspension = 8 hours

1: Suspension = 32 hours

1: Suspension = 112 hours

EIRS FOR NOVEMBER 2018: 17 alerts distributed

Pending IA Cases for the Month of NOVEMBER 2018: 10

IA/IAC Cases opened in the month of NOVEMBER 2018: 1

PnP activities

last meeting 12/6/18, next meeting 1/3/19 12:30 basement conference room

Annual report review and recommended changes

SOP 2-19 Response to behavioral health issues, language recommendations

SOP 2-99 Naloxone research recommendation

Pending:

APD response to CASA para. 298 data

Action to look at CABQ capability to place policy information and database online

OPA presentations

10/25/18	SOP 2-8 use of on body recording devices (CASA)	Review
11/8/18	SOP 3-31 physical fitness testing and training	draft
11/8/18	SOP 1-78 police service aide program formerly 4-6	draft
11/8/18	SOP 1-86 report review unit formerly SOP 8-7	draft
11/15/18	SOP 1-2 social media	draft
12/6/18	SOP 2-58 force review board formerly 2-56 (CASA)	draft
12/13/18	SOP 2-14 Use of cell site simulator technology	11/29 draft
	SOP 2-17 Offense and incident report form	removal
12/20/18	SOP 2-34 Notification of significant incidents	
	SOP 2-89 Automated license plate reader program	
	SOP 1-39 DWI section	
	SOP 2-47 Crashes involving police vehicles	

PPRB activity

9/14 draft	SOP 2-3 Firearms and ammunition authorization	CASA	passed
10/3/18	SOP 2-6 use of emergency warning equipment		heard
10/12/18 draft	SOP 3-34 training committee		heard
10/15/18	SOP 2-19 Response to Behavioral Health Issues	CASA	PPRB
10/31/18	SOP 1-3 Grooming Standards		approved
11/27/18	SOP 1-11 Behavioral Sciences Section		PPRB
11/27/18	SOP 1-46 Field Training		PPRB
11/27/18	SOP 2-3 Firearms and Ammunition Authorization		PPRB
11/27/18	SOP 2-6 Use of emergency warning equipment		PPRB
11/27/18	SOP 2-99 Naloxone formerly 1-8		PPRB
12/11/18	SOP 1-20 behavioral sciences section (formerly 1-11)	CASA	30 day
12/11/18	SOP 2-3 firearms and ammunition authorization	CASA	30 day
12/11/18	SOP 2-6 use of emergency warning equipment		30 day
12/11/18	SOP 2-99 Naloxone policy		30 day



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Leonard Waites, Chair Chantal Galloway, Vice Chair

Joanne Fine Valerie St. John Chelsea Van Deventer

Dr. William Kass

Edward Harness, Esq., Executive Director

POLICE OVERSIGHT BOARD

2019 Meeting Schedule

January – December

**All Meetings are held in the
Vincent E. Griego Chambers –
One Civic Plaza NW - 5th & Marquette NW, Lower Level
Albuquerque, NM 87102**

**Meetings will begin at 5:00 p.m. unless noted otherwise and may extend
beyond 8:00 p.m.**

Thursday, January 10, 2019

Thursday, February 14, 2019

Thursday, March 14, 2019

Thursday, April 11, 2019

Thursday, May 9, 2019

Thursday, June 13, 2019

Thursday, July 11, 2019

Thursday, August 8, 2019

Thursday, September 12, 2019

Thursday, October 10, 2019

Thursday, November 14, 2019

Thursday, December 12, 2019

JOINT DEFENSE AGREEMENT

1. This Joint Defense Agreement ("Agreement") sets forth the terms of the agreement between the City of Albuquerque ("City"), the Policy Oversight Board ("POB"), and the Civilian Police Oversight Agency ("CPOA"), collectively the "Parties", with respect to asserting and preserving the attorney-client privilege, the work-product privilege/doctrine, the joint defense privilege, and exemptions under the Inspection of Public Records Act ("IPRA") in connection with their joint involvement in responding to requests under IPRA.
2. This Agreement is made between the City, POB, and the CPOA on behalf of themselves and their respective counsel. By signing below, the counsel listed below acknowledge that they are authorized to proceed on their clients' behalf in a manner consistent with this Agreement.
3. The Parties are subject to requests for public records under IPRA. The Parties recognize that there are situations where they will need to respond to requests separately, however, there are also situations where there are common questions of law and fact in responses to requests served on both the City, the POB, and/or the CPOA. In light of these and other common interests, the interests of the Parties will be best served if counsel in their reasoned discretion can choose to exchange certain information subject to the continued protection of the attorney-client privilege, the work-product doctrine or privilege, the joint defense privilege, and other privileges.
4. The Parties may choose to make available to each other for review and reproduction copies of documents. Counsel may also choose to share notes, memoranda, impressions, analysis, or documents related to responses to requests for public records under IPRA.
5. The Parties agree that any voluntary exchange of documents and information among the Parties or their counsel and between any Party and another Party's counsel made pursuant to this Agreement does not waive or impair any privilege or attorney work-product and does not diminish the confidentiality of such documents or information. The Parties agree to maintain the confidentiality of all documents and information voluntarily exchanged under this Agreement with the same degree of care and diligence that they would use for their own privileged or work-product information.
6. The Parties agree that documents and information obtained by the Parties under this Agreement may only be given to the Parties to the Agreement. The Parties and all persons acting on their behalf will not disclose documents or any information received from another Party under this Agreement to anyone other than another party to this Agreement nor shall any Party to this Agreement take any actions to compromise any privilege or immunity, without the consent of the originating Party or as ordered by a Court with competent jurisdiction.
7. The Parties may be required to produce information covered by this Agreement in the course of responses to requests for public records. Before producing or otherwise disclosing documents or other information obtained from another Party pursuant to this Agreement, the producing Party shall confer with counsel for the other Parties to this Agreement to determine if there is an appropriate privilege, immunity, or other exemption to be asserted, or another reason for nondisclosure.

8. The Parties acknowledge that the City Clerk is the designated records custodian for the City of Albuquerque for public records under IPRA. If a dispute arises between the Parties on the production or exemption of a particular record or part thereof related to a public records request then the decision shall be made by the Office of the City Clerk, unless the dispute relates to the Attorney-Client Privilege and/or Attorney Work-Product.

9. Any Party may withdraw from this Agreement at any time by written notice to all other Parties to this Agreement, but such Party is bound by the terms hereof as to any information or documents already produced hereunder prior to withdrawal. If a Party withdraws, this Agreement shall continue in full force and effect to the same extent possible as to preserve any privilege or work-product immunity of any remaining Parties. Any Party who chooses to withdraw from this Agreement or who was unable or unwilling to continue to honor the confidentiality required by this Agreement shall immediately notify all parties and immediately return all materials to the Parties from whom they were received, if reasonably required.

10. This Agreement may not be modified except by a writing signed by all the Parties. The Parties agree that remedies at law would be inadequate for any breach of this Agreement and that specific enforcement or an injunction would be the appropriate remedy for a threatened breach.

11. This Agreement is specifically intended to conform with Rule 1-503(B)(3) of the New Mexico Rules of Evidence.

12. No party to the Agreement is required to share all information. Nothing herein precludes independent and separate representation of the best interests of one's clients, nor requires disclosure of information for which it is in the interests of one's clients to keep such information confidential.

13. This Agreement may be signed in counterparts.

CITY OF ALBUQUERQUE
Esteban A. Aguilar, Jr.
City Attorney

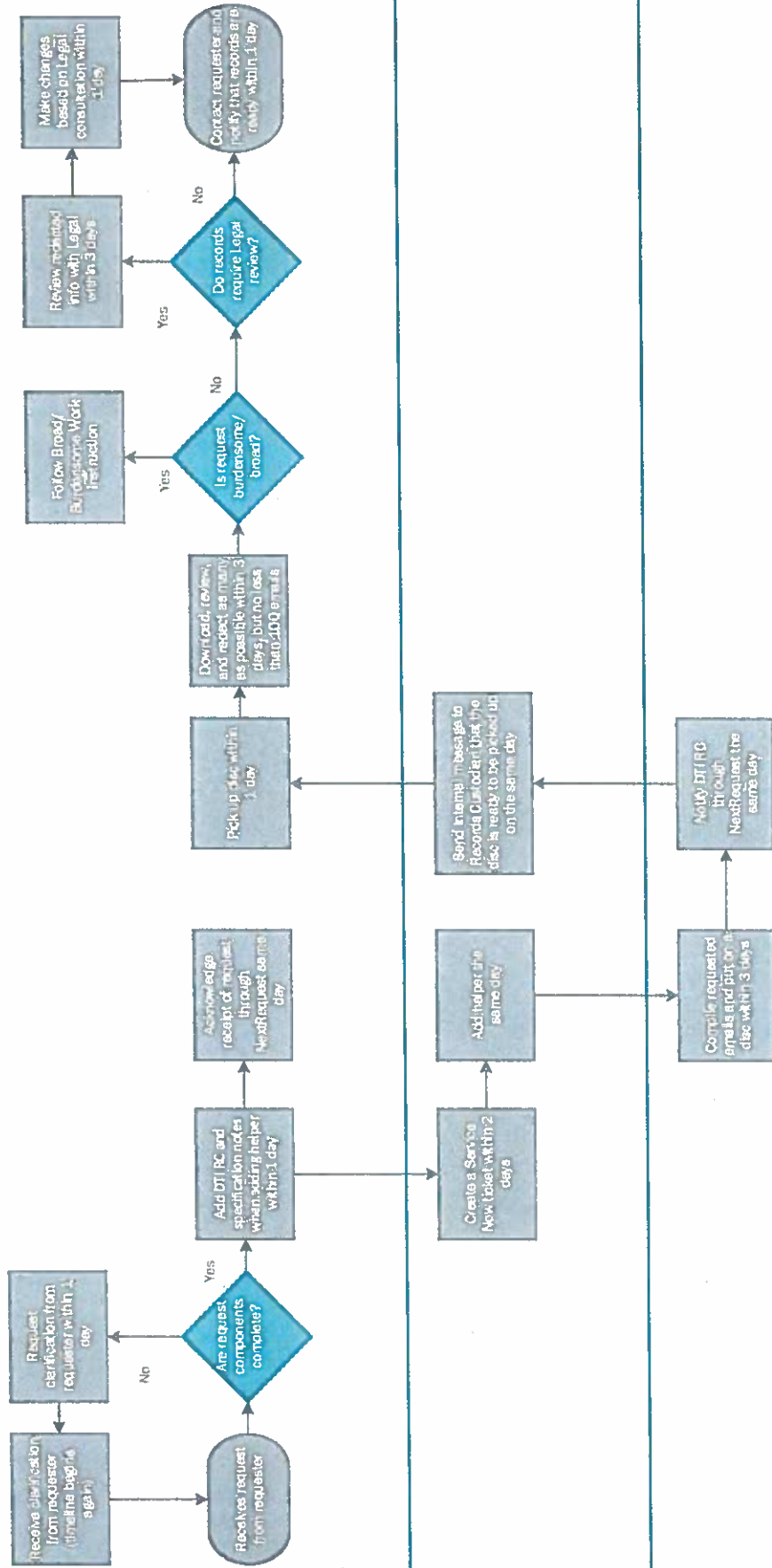
/s/ Jeffrey Driggers
Jeffrey Driggers
Managing Assistant City Attorney
Attorney for City of Albuquerque
PO Box 2248
Albuquerque, New Mexico 87103
(505) 768-4500

CIVILIAN POLICE OVERSIGHT AGENCY
POLICE OVERSIGHT BOARD

/s/ Tina Muscarella Gooch
Tina Muscarella Gooch
Sutin Thayer & Brown
Attorney for CPOA
PO Box 1945
Albuquerque, New Mexico 87103
(505) 883-3433

Email Request Process – Non Team Department

NOTE: If at any time during this process you need clarification or support, please contact Legal and/or the City Clerk's Office.



Records Custodian

DTI Records Custodian

Helper

Summary of Comments on O-18-23 - O-23 Approved
Committee Substitute.pdf

This page contains no comments

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

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

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

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

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

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

24 (F) The Council hereby abolishes the POC and replaces it with a
25 Civilian Police Oversight Agency as prescribed by this Article.

26 § 9-4-1-4 CIVILIAN POLICE OVERSIGHT AGENCY.

27 There is hereby created a Civilian Police Oversight Agency (the
28 "CPOA") as an independent agency of City ^{Government}~~Government~~~~[, not part of either,~~
29 The CPOA shall function independently of, but shall remain accountable to]
30 the City Administration~~[, or the]~~ City Council~~[that, the City Attorney's Office,~~
31 and APD.] [The CPOA] consists of a Police Oversight Board (the "POB") and
32 an Administrative Office led by the CPOA Executive Director. In addition to
33 any other duties, the Administrative Office, through the Executive Director and

T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 10:22:05 PM

The POB recommends lines 28-31 should directly reflect the language of the CASA:

The City shall ensure that the agency remains account able to, but independent from, the Mayor, the City Attorney's Office, the City Council, and APD. None of these entities shall have the authority to alter the agency's findings, operations, or processes, except by amendment to the agency's enabling ordinance.

1 staff, shall investigate all civilian complaints relating to police conduct,
2 monitor and report on police internal affairs matters, provide staffing to the
3 POB, and manage the day to day operations of the CPOA. The POB shall
4 provide policy guidance for, and civilian oversight of the Albuquerque Police
5 Department and review and approve or amend the findings and conclusions of
6 all investigations completed by the Administrative Office.

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

10 (1) Facility Location. The CPOA shall be housed in a facility
11 that is separate from any police presence and is located outside of the
12 Albuquerque/Bernalillo Government Center, the Police Department and/or all
13 of the police substations.

14 (2) Budget. The CPOA shall have a dedicated and
15 independent source of funding equal to, at a minimum, 1/2% of APD's annual
16 operation budget, administer its own budget [in compliance with state and
17 local laws] and supervise its own staff in compliance with the City's Merit
18 Ordinance and contractual services policies and procedures. The CPOA shall
19 recommend and propose its budget to the Mayor and City Council during the
20 City's budget process to carry out the powers and duties under §§ 9-4-1-1
21 through 9-4-1-14, including [itemized listings for] the funding for staff~~;~~ and all
22 necessary operating expenses.

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

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

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

T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 10:24:01 PM

The POB requests the amended ordinance reflect the budget increase of .8% that was originally requested.

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

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

9 (1) Community Outreach. The CPOA shall develop,
10 implement, and from time to time amend as necessary, a program of
11 community outreach aimed at soliciting public input from the broadest
12 segment of the community in terms of geography, culture, ethnicity, and
13 socio-economics. The CPOA shall employ or designate a full time staff
14 member within the Administrative Office dedicated to community outreach
15 efforts. The CPOA shall report its community outreach efforts to the City
16 Council on an annual basis ¹through a written report and oral presentation at a City
17 Council Meeting].

18 (2) Promotion of Accountability [and Impartiality]. The
19 CPOA shall promote a spirit of accountability and communication between the
20 civilians and the Albuquerque Police Department while improving community
21 relations and enhancing public confidence. [The CPOA shall also promote a
22 spirit of impartiality in its review of civilian police ²complaints, and shall ensure
23 that officer conduct is reviewed on a case by case basis and judged fairly and
24 objectively. Unless evidence establishes otherwise, the CPOA shall ensure
25 that the public is aware that the facts of an individual case are not necessarily,
26 on their own, reflective of the department as a whole.]

27 ³(3) Investigations. The Administrative Office shall
28 independently investigate all civilian complaints; shall audit and monitor all
29 incidences of use of force by police and all matters under investigation by
30 APD's Internal Affairs (IA) or other APD personnel tasked with conducting
31 administrative investigations related to a use of force incident; and shall
32 prepare proposed findings and recommendations on all officer involved
33 shootings and serious uses of force as defined by Article III, Paragraph 12,

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T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 10:26:16 PM

The POB recommends striking "through a written report and oral presentation at a City Council Meeting." in lines 16 and 17.

T Number: 2 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 10:28:33 PM

The POB recommends striking the language

"complaints, and shall ensure" in line 22 through to the end of line 26.

T Number: 3 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 10:32:35 PM

The POB notes that 9-4-1-4 (C) (3) remains unresolved as this section neither matches the CASA nor does it reflect the new Use of Force levels.

1 Subsection (qq) [(or as subsequently amended)] of the court-approved DOJ
2 Settlement Agreement with the City of Albuquerque ("Serious Uses of Force").

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

25 (b) APD shall provide POB members, the Director,
26 and CPOA staff with reasonable access to APD premises, files, documents,
27 reports[, data (including APD raw data),] and other materials that are
28 reasonably necessary for the agency to perform thorough, independent
29 investigations of civilian complaints and reviews of serious uses of force and
30 officer-involved shootings. [However For purposes of this ordinance, "APD
31 raw data" includes but is not limited to any facts and statistics or other data
32 gathered, obtained, or that are otherwise within the possession of APD before
33 being processed or analyzed. Notwithstanding the foregoing], any material

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1 protected from disclosure by law shall remain within the custody and control
2 of APD at all times and will be handled in accordance with the applicable legal
3 restrictions.

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

14 (d) Information that is covered by Garrity will be
15 treated as confidential to the extent permitted by law and may only be
16 reviewed by members of the POB by application in writing, and by majority
17 vote of the POB. If the POB votes to review Garrity material, members of the
18 POB may only do so on APD property. The POB may not remove or make
19 copies of such statements. If the POB desires to discuss the specific content
20 of statements protected by Garrity, such discussion will occur only in closed
21 session as permitted under the New Mexico Open Meetings Act, NMSA 1978, §
22 10-15-1(H)(2). The POB shall only summarize conclusions reached after a
23 review of a Garrity statement, but shall not disclose the statement. The POB
24 shall maintain the confidentiality of any Garrity material or records that are
25 made confidential to the extent permitted by law and is subject to the same
26 penalties as the custodian of those records for violating confidentiality
27 requirements. In addition to any other penalty, any POB member or other
28 person who violates the confidentiality provisions of this section shall be
29 removed from the POB, and shall be subject to prosecution for a misdemeanor
30 subject to the penalty provisions set forth in § 1-1-99. This provision shall
31 apply to all aspects of the POB's work.

32 (e) Mediation First. Whenever possible, and as
33 further described in § 9-4-1-6(C)(3) of this ordinance, mediation should be the

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1 first option for resolution of civilian police complaints.

2 (f) POB Audits; Access to Files. The POB may, by
3 majority vote, perform an annual audit, or direct that an audit be performed, on
4 a random sample of up to 10% of individual civilian police complaint
5 investigations involving allegations of use of force, or in exceptional
6 circumstances, for the purpose of promoting an enhanced measure of quality
7 assurance in the most challenging cases the POB may, by a vote of two-thirds
8 (2/3) of the members of the POB, perform an audit, or direct that an audit be
9 performed, on any individual Citizen Police Complaint Investigation completed
10 by the Administrative Office. For purposes of its audit function, the POB shall
11 have full access to investigation files and may subpoena such documents and
12 witnesses as relevant to its audit function.

13 (g) Disciplinary Recommendations. The POB may, in
14 its discretion, recommend officer discipline from the Chart of Sanctions for
15 investigations that result in sustained civilian police complaints; and may also
16 recommend discipline based on any findings that result from review of
17 internal affairs investigations of officer involved shootings and serious uses
18 of force. Imposition of the recommended discipline is at the discretion of the
19 Chief of Police~~[, but~~ However,] if the Chief of Police does not follow the
20 disciplinary recommendation of the POB, the Chief of Police shall respond in
21 writing, within 30 days [of the department's final disciplinary decision], with [a
22 detailed explanation of] the reason as to why the recommended discipline was
23 not imposed. [The Chief shall identify the specific findings of the POB with
24 which the Chief disagrees, or any other basis upon which the Chief declined
25 the POB's disciplinary recommendation.]

26 (4) Reports to Mayor & Council. The CPOA shall submit a
27 semi-annual written report to the Mayor and City Council according to § 9-4-1-
28 10 herein. The CPOA Executive Director shall provide a quarterly oral report to
29 the City Council at a regular or special meeting.

30 (5) CPOA Policy Recommendations. The CPOA shall
31 engage in a long-term planning process through which it identifies major
32 problems or trends, evaluates the efficacy of existing law enforcement
33 practices in dealing with the same, [analyzes and evaluates data (including

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1 [1] APD raw data), national trends, and police best practices,] and establishes a
2 program of resulting policy suggestions[, recommendations,] and studies
3 each year. [For purposes of this ordinance “police best practices” refers to
4 law enforcement methods or techniques based upon the experiences and
5 outcomes in other police departments or law enforcement agencies that have
6 documented superior results compared to other practices.] The CPOA's policy
7 recommendation process shall be as follows:

8 (a) [Policy Recommendations Originating from the
9 CPOA.] The POB shall review and analyze policy suggestions, analysis,
10 studies, and trend data collected or developed by the Administrative Office,
11 and shall by majority vote recommend [~~polices~~ policies] relating to training,
12 programs and procedures or other matters relating to APD. [Any such policy
13 recommendations shall be supported by specific, written findings of the POB
14 in support of the proposed policies.] The POB's policy recommendations shall
15 be submitted to APD and to the City Council. ~~[2]The POB shall dedicate a~~
16 ~~majority (more than 50%) of its time to the functions described in this~~
17 ~~subsection.]~~

18 (b) [Policy Proposals by APD. APD shall provide
19 all policy proposals circulating through its policy development process to the
20 POB for review, comment, and recommendations prior to final adoption.

21 (c) The Chief of Police [or designee] shall respond [~~in~~
22 ~~writing within 45 days to any such policy recommendations by the CPOA, in~~
23 ~~writing within 45 days to any such policy recommendations by the CPOA, and~~
24 to policy recommendations made by the CPOA pursuant to paragraphs ‘a’ or
25 ‘b’ above in writing within 45 days of final action on a policy by APD. As part
26 this response, APD shall] indicate whether [~~they the POB’s policy~~
27 recommendation] will be followed through standard operating procedures or
28 should be adopted as policy by the City Council, or [specifically] explain any
29 reasons why such policy recommendations will not be followed or [~~should~~
30 were] not be adopted.

31 [(e)(d)] Within six months of its appointment, the POB
32 shall draft and approve policies, rules and procedures that ensure that the
33 POB [~~shall dedicate a majority of its time to the functions described in this~~

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T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 10:36:01 PM

The POB echoes APD Forward's recommendations that line 33 of page 7 and line 1 of page 8 read:

""analyzes and evaluates data . . . , innovative practices, national trends, and police best practices."

T Number: 2 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 10:37:26 PM

The POB recommends NOT striking the language "The POB shall dedicate a majority (more than 50%) of its time to the functions described in this subsection." in lines 15 through 17 of page 8.

1 subsection is effectively accomplishing its duties under this Article].

2 [(e) The chair of the POB shall designate one POB
3 member to serve on each APD policy development committee. The Director
4 and the POB member designated by the Chair shall each serve as voting
5 members of such committees,^[1] and shall vote in a manner consistent with any
6 prior related action by the POB, and shall report back to the board about the
7 outcomes and votes cast at the next regularly scheduled meeting of the POB.]

8 § 9-4-1-5 THE CPOA POLICE OVERSIGHT BOARD.

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

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

17 (1) Have not been employed by law enforcement for one
18 year prior to appointment; and

19 (2) Successfully pass a background check; and

20 (3) Personal history lacking any pattern of unsubstantiated
21 complaints against APD; and

22 (4) A demonstrated ability to engage in mature, impartial
23 decision making; and

24 (5) A commitment to transparency and impartial decision
25 making; and

26 (6) Residency within the City of Albuquerque.

27 (C) Appointment of Members. The City Council shall establish a
28 well-publicized, fair and equitable application process for appointment to the
29 POB,^[3] and for filling vacancies]. The City Council, through its staff, shall
30 accept applications from prospective POB members. Staff shall formulate
31 recommendations for appointments based on evaluation of the qualification
32 criteria listed in subsections (A) and (B) above and submit recommendations
33 for appointment(s) to the City Council for its approval. If a member is eligible

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T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 10:40:13 PM

The POB recommends striking the language "and shall vote in a manner consistent with any prior action by the POB, and shall report back to the board about the outcomes and votes cast at the next regularly scheduled meeting of the POB." in lines 5 through 7 of page 9. We believe it to be more appropriate for the POB's Policies and Procedures.

T Number: 2 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 10:55:05 PM

The POB recommends that the Board remain a body of nine volunteers. Line 9, page 9.

T Number: 3 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 10:54:31 PM

The POB recommends adopting the language found in line 29 of page 9.

1 for reappointment, ~~[staff may suggest that member may request]~~
2 reappointment ~~[of that member]~~ without a formal application process and the
3 City Council may reappoint accordingly.

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

7 (E) Removal of Members. Any POB member may be removed for
8 cause by a two-thirds majority vote of ~~[either the POB itself or the City Council]~~.

9 ~~[In addition to any other reasonable cause, any conduct inconsistent with the~~
10 ~~requirements and provisions of this ordinance, any partiality as it relates to~~
11 ~~the evaluation of civilian police complaints, or an inability to objectively~~
12 ~~adjudicate civilian police complaints shall constitute cause for removal.]~~ The
13 appointment of any member who has been absent and not excused from three
14 consecutive regular or special meetings shall automatically expire effective on
15 the date the fact of such absence is reported by the POB to the City Clerk. The
16 City Clerk shall notify any member whose appointment has automatically
17 terminated and report to the City Council that a vacancy exists requiring an
18 appointment for the length of the unexpired term.

19 ~~[F)~~ Orientation and Training. Upon appointment or reappointment
20 POB members shall complete an orientation and training program consisting
21 of the following:

22 (1) Required ~~[Initial]~~ Orientation ~~[and Training]~~. Prior to
23 participation in any meeting of the POB, a newly appointed member must first:

24 (a) Be trained by the CPOA staff or CPOA legal
25 counsel on CPOA ~~[and APD rules,]~~ policies, and procedures; and

26 (b) Attend at least one POB meeting as an observer
27 ~~(except initial appointees for reappointed members).~~

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

31 ~~(a) Completion of those portions of the APD Civilian~~
32 ~~Police Academy that APD determines are necessary for the POB to have a~~

33 ~~sound understanding of the Department, its policies, and the work officers~~

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T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 10:54:04 PM

The POB recommends that the number of members eligible for reappointment or replacement each year be limited to three in line 5 of page 10.

T Number: 2 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 11:26:04 PM

The POB recommends striking "either" and ending the second sentence of page 10, line 9 at "POB" so that (E) on that page will read as follows:

"Removal of Members. Any POB member may be removed for cause by a two-thirds majority vote of the POB."

T Number: 3 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 11:26:26 PM

The POB recommends striking "either" and ending the second sentence of page 10, line 9 at "POB" so that (E) on that page will read as follows:

"Removal of Members. Any POB member may be removed for cause by a two-thirds majority vote of the POB."

T Number: 4 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 11:33:22 PM

The POB recommends that section (F) beginning on line 19 of page 10 through line 17 of page 11 reflect the CASA (PP 274-276) which reads as follows:

"274.

Within six months of their appointment, the City shall provide 24 hours of training to each individual appointed to serve on the agency that covers, at a minimum, the following topics:

- a) this Agreement and the United States' Findings Letter of April 10, 2014;
- b) the City ordinance under which the agency is created;
- c) state and local laws regarding public meetings and the conduct of public officials;
- d) civil rights, including the Fourth Amendment right to be free from unreasonable searches and seizures, including unreasonable uses of force;
- e) all APD policies related to use of force, including policies related to APD's internal review of force incidents; and
- f) training provided to APD officers on use of force.

275.

The City shall provide eight hours of training annually to those appointed to serve on the agency on any changes in law, policy, or training in the above areas, as well as developments in the implementation of this Agreement.

276.

The City shall require those appointed to the agency to perform at least two ride-alongs with APD officers every six months.

T Number: 5 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 11:32:56 PM

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1 perform for purposes of this training requirement, APD shall identify those
2 portions of the standard APD Civilian Police Academy Program that are
3 optional for POB members and shall make other aspects of the program
4 available for POB members to complete independently;

5 ~~_____~~ (c) Be trained on this ordinance and the duties,
6 obligations, and responsibilities that it imposes on POB members and the
7 CPOA;

8 ~~_____~~ (d) State and local laws regarding public meetings,
9 inspection of public records, governmental transparency, and the conduct of
10 public officials;

11 ~~_____~~ (e) Ethics for public officials;

12 ~~(b)(f)~~ Civil Rights training, including the Fourth
13 Amendment right to be free from unreasonable searches and seizures,
14 including unreasonable use of force;

15 ~~[(c) At least two APD ride-alongs];~~

16 ~~_____~~ (d) Annual firearms simulation training;

17 ~~_____~~ (e) Internal Affairs training;

18 ~~(f)(g)~~ Training provided to APD officers on use of force,
19 including a review and familiarization with all APD policies relating to use of
20 force, and including policies related to APD's internal review of force
21 incidents;

22 ~~[(g) Equity and Cultural Sensitivity training;]~~

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

26 ~~[(i) Training on this Police Oversight Ordinance;~~

27 ~~_____~~ (j) Training on state and local laws regarding public
28 meetings and the conduct of public officials;] and

29 ~~[(k)(i)]~~ A briefing that identifies and explains the
30 curriculum of all training currently received or anticipated to be received by
31 APD officers, including any outside training not provided by the city.

32 (3) Required On-Going Training. POB members shall ~~[be~~
33 ~~provided with~~ receive eight hours of annual training on any changes in law,

T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 11:33:11 PM
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1 policy, or training in the areas outlined under subsection (2) above, as well as
2 developments in the implementation of the 2014 DOJ Settlement Agreement
3 (or any subsequent agreements) until such time as the terms of the agreement
4 are satisfied. POB members shall also participate in at least two police ride-
5 alongs for every six-months of service on the POB.

6 (4) Recommended Training. POB members are encouraged
7 to ¹complete those portions of the civilian police academy that APD
8 determines are necessary for the POB to have a sound understanding of the
9 Department, its policies, and the work officers perform, and to] attend
10 conferences and workshops relating to police oversight, such as the annual
11 NACOLE conference at city expense depending on budget availability.

12 ²(5) The Director shall track training progress for each POB
13 member, verify completion of the initial and on-going training requirements for
14 each POB member, and include this information for each POB member as part
15 of the semi-annual reports required by this ordinance.]

16 (G) Chair. The POB shall elect one of its members as the
17 Chairperson and one as Vice-Chairperson, who shall each hold office for one
18 year and until their successors are elected. No officer shall be eligible to
19 immediately succeed himself or herself in the same office. Officers shall be
20 elected in the month of March of each calendar year or upon vacancy of an
21 office to fill the remaining term.

22 (H) Subcommittees. The POB may appoint such subcommittees
23 as are deemed necessary or desirable for the purposes of §§ 9-4-1-1 through
24 9-4-1-14, provided that, membership on such subcommittees shall be limited
25 to POB members ³and no POB member shall serve on any more than two (2)
26 committees at any given time].

27 (I) Meetings. The POB shall conduct regularly scheduled public
28 meetings in compliance with the New Mexico Open Meetings Act, with a
29 prepared agenda that is distributed in advance to the Mayor, City Council,
30 Police Chief, and City Attorney. Each POB meeting will begin with public
31 comments. Only the regularly scheduled monthly meetings and special
32 meetings held pursuant to submission of petitions will be televised live on the
33 appropriate government access channel. All other meetings of the POB shall

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Page: 12

T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 11:39:49 PM

he POB echoes APD Forward's recommendation that lines 7 through 9 of page 12 read:

"[complete those portions of the civilian police academy that APD, past and current POB members, and community stakeholders determine are necessary...]"

T Number: 2 Author: Chantal M. Galloway Subject: Highlight Date: 12/22/2018 12:00:52 AM

The POB recommends that section (5), lines 12 through 15 of page 12 be moved to the reporting section on page 20, line 20.

T Number: 3 Author: Chantal M. Galloway Subject: Highlight Date: 12/21/2018 11:44:33 PM

The POB recommends striking the proposed language found on lines 25 and 26 of page 12. In the event that the board is left without a full compliment of members, it may not be possible to complete the work required of the board without members serving on multiple committees.

1 be videotaped and aired on the appropriate government access channel;
2 however, there is no requirement for providing live television coverage.

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

9 J. Subpoenas. Upon justification by the Director acceptable to the
10 POB, the POB may by simple majority vote authorize the Director to subpoena
11 such documents and witnesses as necessary to carry out the CPOA's
12 investigatory functions. The summoned person may petition the POB or the
13 district court of the county where he or she resides to vacate or modify the
14 administrative subpoena. In the case of a refusal to obey a subpoena issued
15 to any person, the Director may make application to any District Court in the
16 state having jurisdiction to order the witness to appear before the POB and to
17 produce evidence if so ordered, or to give testimony touching on the matter in
18 question. Any summoned person is entitled to legal counsel during all CPOA
19 or POB proceedings.]

20 § 9-4-1-6 CPOA ADMINISTRATIVE OFFICE.

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

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

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

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

T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/22/2018 12:00:31 AM

The POB recommends adopting the proposed language of (J), lines 9 through 18 of page 13. However, we recommend striking the last sentence, "Any summoned person is entitled to legal counsel during all CPOA or POB proceedings." We do not believe it to be wise to allow a perception that we are responsible somehow to entitle a person to legal counsel.

1 Affairs;

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

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

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

21 (2) All civilian complaints filed with other offices within the city
22 authorized to accept civilian complaints, including the Police Department,
23 shall be immediately referred to the Director for investigation; and

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

31 (4) The Director shall monitor all claims of officer involved
32 shootings and serious uses of force. No APD related settlements in excess of
33 \$25,000 shall be made for claims without the knowledge of the Director. The

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1 Director shall be an ex-officio member of the Claims Review Board; and

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

4 (6) The Director shall maintain and compile all information
5 necessary to satisfy the CPOA's semi-annual written reporting requirements in
6 § 9-4-1-10; and

7 (7) If at any point during an investigation the investigator
8 determines that there may have been criminal conduct by any APD personnel,
9 the investigator shall immediately notify the APD Internal Affairs Bureau
10 commanding officer and transfer the administrative investigation to the
11 Internal Affairs Bureau. The CPOA may review the IA investigation and
12 continue processing the complaint at any time upon the conclusion of any
13 criminal proceeding.

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

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

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

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

30 (H) The Director shall report directly to the POB and lead the
31 Administrative Office; independently investigate or supervise all
32 investigations of civilian complaints, audit all IA investigations of complaints,
33 recommend and participate in mediation of certain complaints, and supervise

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1 all CPOA staff.

2 ¹(1) The Director shall satisfy the initial and ongoing training
3 requirements for POB members as prescribed by Section 9-4-1-5(F) and report
4 completion of training activities to the Chair of the POB.]

5 § 9-4-1-7 CPOA DIRECTOR QUALIFICATIONS, SELECTION, RETENTION
6 AND EVALUATION.

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

9 ²(B) The Director will be a full-time [e~~on~~tractual] city employee [directly
10 responsible only to the POB.] to be selected, removed, or reviewed as follows:

11 (1) The POB, through CPOA staff, shall accept applications from
12 candidates. The POB shall review the applications and interview candidates,
13 and submit to the City Council a ranked list of the three candidates that it finds
14 to be the best qualified to be the Director and the City Council shall appoint
15 the Director from the three by majority vote. The POB's recommendation to
16 Council shall be based on the candidates' integrity, capability for strong
17 management and abilities in investigations, law, management analysis, public
18 administration, criminal justice administration or other closely related fields.
19 [The POB's recommendation shall, at a minimum, include an evaluation of the
20 candidates against the provisions and requirements of this subsection 9-4-1-
21 7.]

22 (2) In lieu of recommending three candidates to the Council, the
23 POB may recommend to the Council the reconfirmation of the incumbent
24 Director. [Together with any recommendation for reconfirmation by the POB,
25 the POB shall submit to the City Council a written basis for its
26 recommendation to include a formal evaluation of the Director's past
27 performance, including an evaluation against the duties established for the
28 Director by this ordinance.] Should the Council decline to reconfirm the
29 incumbent Director, the Council President shall notify the POB that it needs to
30 provide the Council with three alternate candidates pursuant to the provisions
31 of subsection (B)(1)[, and the POB shall so submit within 90 days of such
32 notice. The City Council may decline to reconfirm the incumbent Director only
33 for reasonable cause, including but not limited to any failure to fulfill all the

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T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/22/2018 12:04:42 AM

The POB recommends striking the language found in section (I), lines 2 through 4 of page 16. These are requirements of the City per the CASA.

T Number: 2 Author: Chantal M. Galloway Subject: Highlight Date: 12/22/2018 12:08:39 AM

The POB believes the position of the Executive Director is a matter that remains unresolved. Until a decision has been made as to what type of employment arrangement is best suited for the position, the only position this body can take is one advocating our ongoing interest that independence be maintained. Ref section (B), line 9 of page 16 through line 10 of page 17.

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1 requirements obligations of this ordinance, or ineffective leadership of the
2 organization in its mission toward civilian police oversight]. Should the
3 Director not be reconfirmed [or should the confirmation vote be delayed or
4 postponed for any reason], the current Director may continue to serve in the
5 same capacity until a new Director is selected and [approved confirmed] by
6 the City Council. If for any reason there is a period of time during which there
7 is no Director, the City Council may appoint a temporary Director [of its
8 choosing] by a majority vote. . A temporary Director shall serve in that
9 capacity only for a period not to exceed six months[, during which time the
10 POB shall work diligently to select a permanent director].

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

16 (C) The POB shall annually review the performance of the Director taking
17 into consideration the obligations and duties prescribed by this ordinance and
18 the performance of the Administrative Office. [A copy of these performance
19 evaluations shall be delivered to the Chief of Police, the Mayor, and the
20 President of the City Council for receipt by the Council.]

21 § 9-4-1-8 CIVILIAN COMPLAINT PROCEDURES.

22 (A) Any person claiming to be aggrieved by actions of the Police may file
23 a written complaint against the department or any of its officers. ²Neither the
24 POB nor any of its members shall file or initiate a complaint on behalf of a
25 member of the public. Any POB member who files or otherwise initiates a
26 complaint shall recuse from taking any action on the complaint, including
27 evaluating the complaint and voting on its disposition.] The POB shall submit
28 rules and regulations governing civilian complaint procedures to the City
29 Council for approval, including rules and regulations relative to time limits,
30 notice and other measures to insure impartial review of civilians' complaints
31 against members of the police department. Anonymous complaints shall be
32 accepted.

33 (B) In cooperation with the POB, the Mayor shall designate civilian city

T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/22/2018 12:09:17 AM
See previous comment.

T Number: 2 Author: Chantal M. Galloway Subject: Highlight Date: 12/22/2018 12:27:31 AM
The POB recommends striking the proposed language in section (A), lines 23 through 27 on page 17.

1 staff to receive written civilian complaints at various locations throughout the
2 city. The Police Department may also receive written complaints. The party
3 who receives the complaint shall immediately transmit all civilian complaints
4 for further investigation to the Director.

5 (C) After the investigation of a civilian complaint is completed, the
6 Director shall analyze all relevant and material circumstances, facts and
7 evidence gathered under the investigation. For each investigation, the Director
8 shall prepare investigation reports with proposed findings and
9 recommendations and submit them to the POB for its review and
10 consideration. The Director may share any disciplinary recommendations with
11 the Chief of Police in advance of their submission to the POB only as
12 necessary to help ensure timeliness pursuant to any applicable personnel or
13 union contract requirements. [

14 (D)]The POB shall hold a hearing to review the proposed findings and
15 recommendations~~and~~. The POB shall adopt and follow rules for such
16 hearings that implement the requirements of this ordinance and quasi-judicial
17 procedures as prescribed under New Mexico Law. For purposes of these
18 hearings, the POB members shall, at a minimum:

19 (1) Remain impartial in deliberations and decisions and abstain
20 from any independent investigation or review of information not presented by
21 the investigation report or within the investigation file;

22 (2) Refrain from any ex-parte communication relating to the
23 matters and parties under consideration, and recuse from any related hearings
24 as may be necessary based on improper ex parte communication; any ex-
25 parte correspondence that is inadvertently received by a member shall be
26 referred to or otherwise disclosed to the Director and, when appropriate, made
27 available for review by the relevant complaint and APD officer or their
28 representatives; and

29 (3) Recuse from any hearing in which he or she has a direct or
30 indirect personal conflict of interest or cannot otherwise accord a fair and
31 impartial review, or in which such member's participation would create the
32 appearance of impropriety or partiality.]

33 [(E) At the close of evidence and any related deliberation, the POB] shall

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T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/22/2018 12:34:32 AM

The POB recommends striking the proposed new language beginning on line 14 page 18 through line 15 on page 19 (sections D, E, and F).

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1 by majority vote of members present: 1) approve the findings and
2 recommendations as proposed; 2) approve other findings and
3 recommendations as determined by the POB and supported by the
4 investigation file; or 3) defer action on the matter to allow for further
5 investigation or analysis [on specifically identifiable matters] by the Director.
6 As part of its review, the full investigation file shall be made available to the
7 POB. [

8 (F) Upon approval of findings and recommendations by the POB, the
9 Director shall prepare and submit a public record letter to the civilian
10 complainant, with a copy to the Chief of Police, that outlines the findings and
11 recommendations as approved. Unless a hearing is requested by the civilian
12 complainant, within 30 days of receipt of the decision of the POB[,] the Chief
13 of Police shall notify the POB and the original civilian complainant of his or
14 her final disciplinary decision in this matter in writing, by certified mail [and as
15 otherwise prescribed by subsection 9-4-1-4(C)(3)(g) of this ordinance.]

16 § 9-4-1-9 REQUESTS FOR HEARING; APPEALS OF DISCIPLINARY
17 DECISIONS.

18 (A) Requests for Hearing. Any person who has filed a civilian
19 complaint and who is dissatisfied with the findings and/or recommendations
20 approved by the POB may request reconsideration by the POB within 30 days
21 (inclusive of weekends and holidays) of receipt of the public record letter. The
22 POB may grant a request for reconsideration only upon a showing by the
23 complainant that: 1) a policy was misapplied in the evaluation of the
24 complaint; 2) that the findings or recommendations were arbitrary, capricious
25 or constituted an abuse of discretion, or 3) that the findings and
26 recommendations were not consistent with the record evidence. The POB
27 shall notify the Chief of Police of the request for hearing and hold a hearing on
28 the matter at its next regularly scheduled meeting provided that there is a
29 period of at least ten days between the receipt of the request for hearing and
30 the next POB meeting. [Any such hearing shall be conducted in accord with

31 quasi-judicial procedures and section 9-4-1-8(D).] Upon close of the hearing
32 the POB may modify or change the findings and/or recommendations of the
33 public record letter and may make further recommendations to the Chief of

T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/22/2018 12:34:43 AM
See previous comment.

T Number: 2 Author: Chantal M. Galloway Subject: Highlight Date: 12/22/2018 12:35:22 AM
The POB recommends striking the proposed new language on lines 30 and 31 of page 19.

1 Police regarding the findings and/or recommendations and any discipline
2 imposed by the Chief of Police or proposed by the Chief of Police. Within 20
3 days of receipt of the decision of the POB, the Chief of Police shall notify the
4 POB and the original civilian complainant of his or her final disciplinary
5 decision in this matter in writing, by certified mail.

6 (B) Appeals of the Disciplinary Decision. If any person who has
7 filed a civilian complaint under §§ 9-4-1-1 through 9-4-1-14 is not satisfied with
8 the final disciplinary decision of the Chief of Police or any matter relating to
9 the Chief of Police's handling of his or her complaint, he or she may request
10 that the Chief Administrative Officer review the complaint, the findings of the
11 POB and the action of the Chief of Police by requesting such review in writing
12 within 30 days (inclusive of weekends and holidays) of receipt of the Chief of
13 Police's letter pursuant to § 9-4-1-9(A). Upon completion of his or her review,
14 the Chief Administrative Officer shall take any action necessary, including
15 overriding the decision of the Chief of Police regarding disciplinary action, to
16 complete the disposition of the complaint. The Chief Administrative Officer
17 shall notify in writing, by certified mail, the complainant, the individual against
18 whom the complaint was filed, the Chief of Police and the Director, of the
19 results of his or her review and any action taken.

20 § 9-4-1-10 REPORTS.

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

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

26 (B) Discussion of issues of interest undertaken by the POB which
27 may include suggested policy and/or procedural changes, a listing of
28 complaints and allegations by Council District, statistical ethnicity of subject
29 officers, statistical ethnicity of complainants, and updates on prior issues
30 and/or recommendations;

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

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

5 (E) The status of the long-term planning process identifying major
6 problems, policy suggestions, and studies as required by § 9-4-1-4(C)(5);

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

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

13 § 9-4-1-11 EVALUATION.

14 Contingent upon funding, in the first six months of 2016 and at least
15 every four years thereafter, from adoption of §§ 9-4-1-1 through 9-4-1-14, the
16 City Council shall issue a Request for Proposal for an independent consultant
17 to undertake a complete evaluation and analysis of the entire police oversight
18 process, and recommend any necessary changes or amendments that would
19 appropriately improve the process.

20 § 9-4-1-12 SPECIAL MEETINGS.

21 On the petition of 1,000 or more civilians in the City of Albuquerque
22 filed in the Office of the City Clerk, the POB shall hold a special meeting for
23 the purpose of responding to the petition and hearing and inquiring into
24 matters identified therein as the concern of the petitioners. Copies of the
25 petition shall be filed with the POB by the City Clerk. Notice of such meeting
26 shall be given in the same manner as notice is given for other meetings of the
27 POB and shall comply with the State Open Meetings Act.

28 § 9-4-1-13 CONFIDENTIALITY.

29 The POB hearing process shall be open to the public to the extent
30 legally possible so that it does not conflict with state or federal law. However,
31 upon the opinion of the CPOA Attorney that the law permits such action, some
32 of the details of the investigations of the Director, or the designated
33 independent investigator, shall become privileged and confidential. The

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

8 § 9-4-1-14 MANDATORY COOPERATION AGREEMENT.

9 The City Council believes that full participation and cooperation of all
10 parties involved is essential to the success of the new police oversight
11 process, and that APD hereby agrees and understands that its full cooperation
12 is necessary, hereby agrees to mandate that its officers provide honest and
13 truthful responses to all questions by the Director, CPOA staff or the
14 designated independent investigator. If any officer refuses to answer the
15 questions proposed to him or her by the Director, CPOA staff, or the
16 independent investigator, he or she may be subject to termination or
17 disciplinary action at the discretion of the Chief of Police. Compelled
18 statements given to the Director, CPOA staff or the designated independent
19 investigator, by a police officer will be used only for the Director's
20 investigation and the closed session review of the investigation file by the
21 POB, if any. The actual statement will remain confidential and will not be
22 included in a final report. The Director may summarize conclusions reached
23 from a compelled statement for the investigation report and in the public
24 record letter to the complainant.

25 SECTION 5. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
26 clause, word or phrase of this ordinance is for any reason held to be invalid or
27 unenforceable by any court of competent jurisdiction, such decision shall not
28 affect the validity of the remaining provisions of this ordinance. The Council
29 hereby declares that it would have passed this ordinance and each section,
30 paragraph, sentence, clause, word or phrase thereof irrespective of any
31 provision being declared unconstitutional or otherwise invalid.

32 SECTION 6. COMPILATION. The ordinance amendment prescribed by
33 SECTIONS 1, 2, 3, and 4 shall amend, be incorporated in and made part of the

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1 Revised ordinances of Albuquerque, New Mexico, 1994.

2 SECTION 7. EFFECTIVE DATE. This ordinance shall take effect five days
3 after publication by title and general summary.

4
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T Number: 1 Author: Chantal M. Galloway Subject: Highlight Date: 12/22/2018 12:40:58 AM

Finally, the POB recommends taking this opportunity to discuss a rename of the Police Oversight Board to more closely reflect the relationship between the Board and the Agency. We suggest the Board of the Civilian Police Oversight Agency.

Appeals to the POB - Procedures .

Procedure for Appeals:

- The appeal shall be limited to forty-five (45) minutes unless the POB determines that additional time is necessary. The POB may ask questions at any time.

Appellant (citizen):

- The Appellant shall be given fifteen (15) minutes to speak and present their side of the discussion. The POB asks that you do not use the officer's names during your presentation.

APD and CPOA:

- APD/IA and the CPOA shall then be given ten (10) minutes each to present their side of the discussion. This may include both APD/IA and the CPOA/staff.

Police Officers:

- Police officers, who are the subjects of the complaint and appeal, shall be given five (5) minutes to speak. Historically, police officers do not come to the appeal hearing.

Appellant (citizen):

- The Appellant shall be given five (5) minutes to conclude their presentation.

POB:

- The matter will then be before the POB for discussion and a decision. The POB may ask additional questions of those present if it deems it necessary.
- The POB Chairperson will then ask for a motion and a second on the matter. Examples of motions might be as follows:
 1. Keep the findings as presented by the CPOA and deny the appeal.
 2. Remand to the CPOA for further findings/investigations.
 3. Change the recommendation of the CPOA.
 4. Make further recommendations in regards to the findings.
 5. Make further recommendations to APD in regards to imposed or proposed discipline.
- The POB Chairperson will then call for a vote on the proposed motion.
- The POB shall make determine a finding during the hearing and render a decision by a simple majority vote during the open hearing. A tie vote means there is no change to the findings. The CPOA will mail the decision to the appellant.

Appeals to the POB – General Information

You have appealed your case to the Police Oversight Board (POB). You will need to appear at the POB meeting on the date and time your appeal has been set for. During the meeting, your case number (CPC#053-18) will be announced and you should then come down and approach the podium.

The Chairperson will ask you to identify yourself and then will explain how the procedure will work. You will be given 15 minutes to present your case to the Board. You, or a representative of your choice, may speak for you. You may share your 15 minutes with other witnesses if you desire. After your time is up or you have finished, both APD and the CPOA office will be given 10 minutes to speak. After both APD and the CPOA have spoken, you will be given 5 additional minutes to speak. The Board members may ask questions to help clarify things. See the attached Procedure for Appeals page.

When you begin speaking about your case, it is very helpful if you explain what happened which led to the *police involvement*. After you explain what happened, then explain your *interaction with the officers* and what you feel they did wrong.

Board members will review your case prior to the meeting, but it is important to explain what happened, not just why you are unhappy with the police department.

After everyone has spoken and the POB have asked whatever questions they feel are important, they will vote on your case. In addition, a few days after the meeting you will be mailed a letter explaining how the POB voted.

If your complaint was “Sustained”, it means we found the officer in violation of a particular charge. If your complaint was found to be “Not Sustained” that means the evidence was 50-50. If the finding is “Exonerated” or “Unfounded” it means we found the officers did not violate that charge.

If you have any questions about the appeal process or anything else please call the CPOA office at (505) 924-3770.