

# CITY of ALBUQUERQUE

## TWENTY FIFTH COUNCIL

COUNCIL BILL NO. F/S O-21-78 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Bassan, Benton, Davis

1 ORDINANCE

2 AMENDING CHAPTER 9, ARTICLE 4, PART 1 ROA 1994, THE POLICE

3 OVERSIGHT ORDINANCE

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

6 SECTION 1. SECTION 9-4-1-1 THROUGH 9-4-1-14 ARE HEREBY AMENDED  
7 AS FOLLOWS:

8 "§ 9-4-1-1 SHORT TITLE.

9 Sections 9-4-1-1 through 9-4-1-14 may be cited as the Police  
10 Oversight Ordinance.

11 § 9-4-1-2 PURPOSE.

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

13 (A) Foster and perpetuate policing policies and practices that  
14 effectively maintain social order and which at the same time foster mutual  
15 trust and cooperation between police and civilians;

16 (B) Ensure that the civilian police oversight body functions as  
17 independently as possible from the executive and legislative branches of  
18 government of the City of Albuquerque;

19 (C) Provide civilians and police officers a fair and impartial system  
20 for the investigations and determinations on civilian police complaints;

21 (D) Gather and analyze information, reports, and data on trends  
22 and potential issues concerning police conduct and practices and the related  
23 impacts on the community and individuals; and

24 (E) Provide input, guidance and recommendations to the City  
25 Council, the Mayor and the Chief of Police for the development of policy for  
26 the Albuquerque Police Department.

27 § 9-4-1-3 LEGISLATIVE FINDINGS.

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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, not part of either the  
29 city administration or City Council[,] consists of the Civilian Police Oversight  
30 Agency Board (the "Board") and an Administrative Office led by the CPOA  
31 Executive Director [(the "Director" or the "Executive Director")]. The CPOA is  
32 a critical component of police reform and oversight in Albuquerque. This  
33 Ordinance is intended to comprehensively establish and set forth the CPOA,

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1 but the CPOA is also contemplated within and bears significant duties and  
2 obligations within the 2014 DOJ Settlement Agreement with the City of  
3 Albuquerque (or any subsequent agreements), and Findings Letter of April 10,  
4 2014 (or any subsequent findings letters)]. In addition to any other duties, [~~the~~  
5 ~~Administrative Office, through]~~ the Executive Director [~~and staff,~~] shall  
6 [~~investigate~~ direct and oversee the investigation of] all civilian complaints  
7 relating to [~~police conduct~~ officer misconduct], monitor and report on police  
8 internal affairs matters, provide staffing to the Board, and manage the day to  
9 day operations of the CPOA. The Board shall provide policy guidance for, and  
10 civilian oversight of the Albuquerque Police Department [~~and review and~~  
11 ~~approve or amend the findings and conclusions of all investigations~~  
12 ~~completed by the Administrative Office~~]. Board members shall rely on the  
13 CPOA professional investigative staff to perform the investigations called for  
14 under this article, and shall not independently investigate any matters [~~before~~  
15 ~~the Board~~].

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

20 (1) Facility Location. The CPOA shall be housed in a facility  
21 that is separate from any police presence and is located outside of the  
22 Albuquerque[~~/ Bernalillo Government Center~~ City Hall], the Police Department  
23 and/or all of the police substations.

24 (2) Budget. The CPOA shall have a dedicated and  
25 independent source of funding, administer its own budget in compliance with  
26 state and local laws, and supervise its own staff in compliance with the city's  
27 Merit Ordinance and contractual services policies and procedures. The CPOA  
28 shall recommend and propose its budget to the Mayor and City Council during  
29 the city's budget process to carry out the powers and duties under §§ 9-4-1-1  
30 through 9-4-1-14, including itemized listings for the funding for staff and all  
31 necessary operating expenses. [Adequate funding shall be provided to uphold  
32 the ability of the CPOA to carry out its duties and support its staff and  
33 operating expenses.]

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

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

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

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

20                         (1)     **Community Outreach.** The CPOA shall develop,  
21 implement, and from time to time amend as necessary, a program of  
22 community outreach aimed at soliciting public input from the broadest  
23 segment of the community in terms of geography, culture, ethnicity, and  
24 socio-economics. The CPOA shall employ or designate a full time staff  
25 member within the Administrative Office dedicated to community outreach  
26 efforts. The CPOA shall report its community outreach efforts to the City  
27 Council as part of its reporting under § 9-4-1-10.

28                         (2)     **Promotion of Accountability and Impartiality.** The CPOA  
29 shall promote a spirit of accountability and communication between the  
30 civilians and the Albuquerque Police Department while improving community  
31 relations and enhancing public confidence. The CPOA shall also promote a  
32 spirit of impartiality in its review of police conduct, and shall ensure that  
33 officer conduct is judged fairly and objectively.

1 (3) Investigations. The Administrative Office shall  
2 independently investigate all civilian complaints [alleging officer misconduct];  
3 shall audit and monitor [a representative sampling of] all incidences of use of  
4 force by police and all matters under investigation by APD's Internal Affairs  
5 (IA) or other APD personnel tasked with conducting administrative  
6 investigations related to a use of force incident; and shall prepare proposed  
7 findings and recommendations on all officer involved shootings and serious  
8 uses of force as defined by Article III, Paragraph 12, Subsection (qq) (or as  
9 subsequently amended) of the court-approved DOJ Settlement Agreement  
10 with the City of Albuquerque ("Serious Uses of Force"). [A "representative  
11 sampling" means a subset of a population that seeks to accurately reflect the  
12 characteristics of the larger group.]

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

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1 proceed in such circumstances to APD and the police officer involved.

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

10 (c) All complaints filed by police officers will be  
11 investigated by Internal Affairs. [The Board shall not investigate complaints  
12 filed by police officers.] Internal Affairs shall provide a weekly update to the  
13 Director on all open internal investigations. The [CPOA] Director's  
14 investigation report and findings shall indicate whether within the past year  
15 there were any IA investigations or supervisor generated complaints against  
16 the officer(s) involved in the incident being investigated or that are otherwise  
17 relevant to the subject matter of the investigation, the general nature of the  
18 prior investigations or complaints, and whether they resulted in any discipline.  
19 Redacted personnel records including those of the Internal Affairs Unit shall  
20 be made available to the Board on demand.

21 (d) Information that is covered by Garrity will be  
22 treated as confidential to the extent permitted by law and may only be  
23 reviewed by members of the Board by application in writing, and by majority  
24 vote of the Board. If the Board votes to review Garrity material, members of  
25 the Board may only do so on APD property. The Board may not remove or  
26 make copies of such statements. If the Board desires to discuss the specific  
27 content of statements protected by Garrity, such discussion will occur only in  
28 closed session as permitted under the New Mexico Open Meetings Act, NMSA  
29 1978, § 10-15-1 (H)(2). The Board shall only summarize conclusions reached  
30 after a review of a Garrity statement, but shall not disclose the statement. The  
31 Board shall maintain the confidentiality of any Garrity material or records that  
32 are made confidential to the extent permitted by law and is subject to the same  
33 penalties as the custodian of those records for violating confidentiality

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1 requirements. In addition to any other penalty, any Board member or other  
2 person who violates the confidentiality provisions of this section shall be  
3 removed from the Board, and shall be subject to prosecution for a  
4 misdemeanor subject to the penalty provisions set forth in § 1-1-99. This  
5 provision shall apply to all aspects of the Board's work.

6 (e) Mediation First. Whenever possible, and as  
7 further described in § 9-4-1-6(C)(3), mediation should be the first option for  
8 resolution of civilian police complaints.

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

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

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1 Chief declined the ~~[Board's~~ Director's] disciplinary recommendation. [The  
2 CPOA shall report data regarding the outcomes of all disciplinary  
3 recommendations, to include whether the Chief imposed the recommended  
4 discipline, as part of its quarterly oral reports, as outlined in § 9-4-1-4(C)(4).

5 (h) Summary Disposition of Complaints. The Director  
6 shall develop and implement a policy that specifies those complaints, other  
7 than officer misconduct, that may be resolved informally or through  
8 mediation. Administrative closing or inactivation of a complaint investigation  
9 shall be used for the most minor policy violations that do not constitute a  
10 pattern of misconduct, duplicate allegations, allegations which are too broad  
11 and/or lack any specificity, or allegations that even if true would not constitute  
12 officer misconduct.]

13 (4) Reports to Mayor & Council. The CPOA shall submit a  
14 semi-annual written report to the Mayor and City Council according to § 9-4-1-  
15 10 herein. The CPOA Executive Director shall provide a quarterly oral report to  
16 the City Council at a regular or special meeting. The oral report shall at a  
17 minimum address community outreach efforts, agency progress and  
18 initiatives, [data regarding actual disciplinary outcomes imposed by the Chief  
19 of Police as compared to CPOA disciplinary recommendations, any  
20 outstanding Board vacancies and the most forthcoming term expiration(s) of  
21 any Board member(s), and the status of board members having satisfied their  
22 training requirements,] together with any of the agency's issues or concerns.

23 (5) CPOA Policy Recommendations. The CPOA shall  
24 engage in a long-term planning process through which it identifies major  
25 problems or trends, evaluates the efficacy of existing law enforcement  
26 practices in dealing with the same, analyzes and evaluates data (including  
27 APD raw data), innovative practices, national trends, and police best practices,  
28 and establishes a program of resulting policy suggestions, recommendations,  
29 and studies each year. APD shall provide Board members, the Director, and  
30 CPOA staff with reasonable access to APD premises, files, documents,  
31 reports, data (including APD raw data), and any other materials that are  
32 reasonably necessary for this purpose. For purposes of this article, "APD raw  
33 data" includes but is not limited to any facts and statistics or other data

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1 gathered, obtained, or that are otherwise within the possession of APD before  
2 being processed or analyzed; "police best practices" refers to law  
3 enforcement methods or techniques based upon the experiences and  
4 outcomes in other police departments or law enforcement agencies that have  
5 documented superior results compared to other practices, and to  
6 recommendations by recognized research and policy development groups,  
7 forums, consortiums, or similar. The CPOA shall redact any personal  
8 identification information from any APD raw data within its possession as  
9 permitted by law prior to its release to the public. The CPOA's policy  
10 recommendation process shall be as follows:

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

21 (b) Policy Proposals by APD. APD shall provide all  
22 policy proposals passed by the APD Policy and Procedures Review Board to  
23 the Board for its review, comment, and recommendations prior to final  
24 adoption.

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

32 (d) ~~[Within six months of its appointment, t~~ he  
33 Board shall review and update as appropriate its draft and approve policies,

1 rules and procedures that ensure that the Board is effectively accomplishing  
2 its duties under this Article [on an annual basis. Updates outside of its annual  
3 review will become effective only upon a 2/3 vote of the membership of the  
4 Board].

5 (e) The chair of the Board shall designate one Board  
6 member to serve on each APD policy development committee. The Director  
7 and the Board member designated by the Chair shall each serve as voting  
8 members and representatives of the Board on such committees, and shall  
9 report back to the Board about the outcomes and votes cast at the next  
10 regularly scheduled meeting of the Board.

11 § 9-4-1-5 THE CPOA POLICE OVERSIGHT BOARD.

12 (A) Composition. The Board shall be composed of [~~nine~~ seven] at-  
13 large members who broadly represent the diversity and demographics of the  
14 city by way of, including but not limited to, cultural, gender and geographic  
15 diversity; and who are representative of the stakeholders of the police  
16 oversight process, and who reside within the City of Albuquerque.

17 (B) Qualifications. In addition to the composition standards set  
18 forth above, the following are the minimum qualifications for members of the  
19 Board:

20 (1) Have not been employed by [APD law enforcement for at  
21 least three years prior to appointment, or have not been employed by other  
22 law enforcement [departments] for [at least] one year prior to appointment;  
23 and

24 (2) Successfully pass a background check; and

25 (3) Personal history lacking any pattern of unsubstantiated  
26 complaints against APD; and

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

29 (5) A commitment to transparency and impartial decision  
30 making; and

31 (6) Residency within the City of Albuquerque.

32 (C) Appointment of Members. The City Council shall establish a  
33 well-publicized, fair and equitable application process for appointment to the

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1 Board, and for filling vacancies. The City Council, through its staff, shall  
2 accept applications from prospective Board members. Staff shall formulate  
3 recommendations for appointments based on evaluation of the qualification  
4 criteria listed in subsections (A) and (B) above and submit recommendations  
5 for appointment(s) to the City Council for its approval. Staff shall establish  
6 written policies and procedures for its administration of this process. If a  
7 member is eligible for reappointment, that member may request  
8 reappointment without a formal application process and the City Council may  
9 reappoint accordingly. ~~The City Council shall report out its progress on filling~~  
10 ~~CPOA Board vacancies on a quarterly basis.~~

11 (D) Timeline for Filling of Vacancies. The Director shall notify the  
12 President of the City Council of a forthcoming vacancy on the Board at least  
13 sixty days prior to the expiration of a Board Member’s term, and within five  
14 days of the resignation of a Board member. The City Council shall act on an  
15 appointment to fill the vacancy within sixty days of the Council President’s  
16 receipt of notice from the Director.

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

20 [(1) If a Member is appointed to fill an unexpired term of  
21 another person, that term shall not be considered a term for the  
22 purpose of this limitation if the time remaining in the term at the time  
23 of the appointment is one year or less. This provision shall apply  
24 only to Board members who are appointed after the effective date of  
25 Council Bill No. O-21-78.]

26 (E) Removal of Members. Any Board member may be removed for  
27 cause by a two-thirds majority vote of either the Board itself or the City  
28 Council. In addition to any other reasonable cause, any conduct inconsistent  
29 with the requirements and provisions of this article, or a demonstrated  
30 inability to objectively adjudicate civilian police complaints, shall constitute  
31 cause for removal.

32 [(1)]The appointment of any member who has been absent  
33 and not excused from three consecutive regular or special meetings ~~shall~~

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1 automatically [~~expire effective~~ terminates] on the date the [~~fact of such~~  
2 ~~absence is reported by the Board to the City Clerk.~~ third consecutive absence  
3 occurs.]

4 (2) The appointment of any member who has not completed  
5 the training required by subparagraph ‘(F)(2)’, below, automatically terminates  
6 if all initial training is not fully completed within an additional 30 day grace  
7 period from the expiration of the six month deadline. However, if any training  
8 is not completed because the training was not made available by the City, the  
9 30-day grace period is extended to include the timeframe within which the  
10 training is offered and can be reasonably completed.

11 (3) The appointment of any member who has not completed  
12 the training required by subparagraph ‘(F)(3)’, below, automatically terminates  
13 if the eight hours of required on-going training is not fully completed within an  
14 additional 30 day grace period of the anniversary date of the member’s  
15 appointment. However, if any training is not completed because the training  
16 was not made available by the City, the 30-day grace period is extended to  
17 include the timeframe within which the training is offered and can be  
18 reasonably completed.

19 (4) The [City Clerk Director] shall notify any member whose  
20 appointment has automatically terminated and [shall within five days] report to  
21 the City Council [President] that a vacancy exists requiring an appointment for  
22 the length of the unexpired term. [The appointment of a new member to fill the  
23 resulting vacancy is subject to the timelines established by paragraph ‘D’,  
24 above.]

25 (F) **Orientation and Training.** Upon initial appointment Board  
26 members shall complete an orientation and training program consisting of the  
27 following:

- 28 (1) **Required Orientation.** Prior to participation in any  
29 meeting of the Board, a newly appointed member must first:
- 30 (a) Be trained by the CPOA staff or CPOA legal  
31 counsel on CPOA policies, and procedures; and
  - 32 (b) Attend at least one Board meeting as an observer  
33 (except for reappointed members).

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1 (2) Required Training. The city shall provide, and each  
2 [POB Board] member shall complete, a training program within the first six  
3 months of the member's initial appointment that consists, at a minimum, of the  
4 following:

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

8 (b) Training on this ordinance and the duties,  
9 obligations, and responsibilities that it imposes on Board members and the  
10 CPOA;

11 (c) Training on State and local laws regarding public  
12 meetings and the conduct of public officials, including but not limited to  
13 inspection of public records, governmental transparency, ethics;

14 (d) Training on civil rights, including the Fourth  
15 Amendment right to be free from unreasonable searches and seizures,  
16 including unreasonable uses of force;

17 (e) Training on all APD policies related to use of  
18 force, including policies related to APD's internal review of force incidents;

19 (f) Training provided to APD officers on use of force;

20 (g) Completion of those portions of the APD Civilian  
21 Police Academy that APD determines are necessary for the [POB Board] to  
22 have a sound understanding of the Department, its policies, and the work  
23 officers perform. For purposes of this training requirement, APD shall identify  
24 those portions of the standard APD Civilian Police Academy Program that are  
25 optional for [POB Board] members and shall make other aspects of the  
26 program available for [POB Board] members to complete independently;

27 (h) At least two APD ride-alongs[;

28 [(i) Annual firearms simulation training;]

29 [(j)(i) Internal Affairs training;

30 [(k) Equity and Cultural Sensitivity training; and]

31 [(l)(j) A briefing that identifies and explains the  
32 curriculum of all training currently received or anticipated to be received by  
33 APD officers, including any outside training not provided by the city].

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1 (3) Required On-Going Training. Board members shall  
2 receive eight hours of annual training ~~[to include but not be limited to:]~~  
3 [(a)] any changes in law, policy, or training in the areas  
4 outlined under subsection (2) above, as well as developments in the  
5 implementation of the 2014 DOJ Settlement Agreement (or any subsequent  
6 agreements) until such time as the terms of the agreement are satisfied; [or  
7 (b) attendance at the annual NACOLE conference,  
8 which may satisfy no more than four hours of a Board member’s on-going  
9 annual training requirements;]  
10 [In addition to the eight hours of on-going annual training,] Board members  
11 shall also participate in at least two police ride-alongs for every six-months of  
12 service on the Board.

13 (4) Recommended Training. Board members are  
14 encouraged to attend conferences and workshops relating to police oversight,  
15 such as the annual NACOLE conference at city expense depending on budget  
16 availability. [The Director, in collaboration with the City and APD, shall  
17 maintain training opportunities for members that includes, but is not limited  
18 to:

- 19 (a) Annual firearms simulation training; and
- 20 (b) Equity and Cultural Sensitivity training;

21 (5) [The CPOA and APD shall jointly create and maintain a  
22 Board training calendar that outlines the dates in which the required and  
23 recommended training opportunities outlined in this subsection ‘F’ are  
24 available to members of the Board.

25 (6) The Director shall track training progress for each Board  
26 member, verify completion of the initial and on-going training requirements for  
27 each Board member, and include this information for each Board member as  
28 part of the semi-annual reports required by this article. [The Director may  
29 contract with outside, neutral trainers or training resources in order to  
30 effectively implement any of the training called for in this subsection ‘F’,  
31 above.]

32 (G) Chair. The Board shall elect one of its members as the  
33 Chairperson and one as Vice-Chairperson, who shall each hold office for one

1 year and until their successors are elected. No officer shall be eligible to  
2 immediately succeed himself or herself in the same office. Officers shall be  
3 elected in the month of March of each calendar year or upon vacancy of an  
4 office to fill the remaining term.

5 (H) Subcommittees. The Board may appoint such subcommittees  
6 as are deemed necessary or desirable for the purposes of §§ 9-4-1-1 through  
7 9-4-1-14, provided that, membership on such subcommittees shall be limited  
8 to Board members and ~~[no Board member shall serve on any more than two~~  
9 ~~committees at any given time~~ the Board shall strive to evenly distribute  
10 subcommittee membership among the entire Board].

11 (I) Meetings. The Board shall conduct regularly scheduled public  
12 meetings in compliance with the New Mexico Open Meetings Act, with a  
13 prepared agenda that is distributed in advance to the Mayor, City Council,  
14 Police Chief, and City Attorney. Each Board meeting will begin with public  
15 comments. Only the regularly scheduled monthly meetings and special  
16 meetings held pursuant to submission of petitions will be televised live on the  
17 appropriate government access channel. All other meetings of the Board shall  
18 be videotaped and aired on the appropriate government access channel;  
19 however, there is no requirement for providing live television coverage.

20 (1) Public Comment. The Board shall allow general public  
21 comment at each of its meetings, and the Board shall also allow comment on  
22 each of its agenda items other than Citizen Police Complaints. ~~[The~~  
23 ~~complainant or complainant's authorized representative in a Citizen Police~~  
24 ~~Complaint will be provided with a minimum of five minutes to address the~~  
25 ~~Board relating to the complaint and investigation.]~~

26 (J) Subpoenas.

27 (1) The CPOA is authorized to issue subpoenas only as  
28 necessary to investigate civilian complaints, or to audit and monitor  
29 incidences of use of force by police.

30 (2) Prior to seeking a subpoena, the Executive Director  
31 must make a reasonable attempt to exhaust all other avenues for obtaining the  
32 information sought.

33 (3) In order to issue an administrative subpoena, the

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1 Executive Director must ensure that:

- 2 (a) the inquiry is within the authority of the CPOA;
- 3 (b) the demand is not too indefinite;
- 4 (c) the information is relevant to the purpose of the
- 5 investigation; and
- 6 (d) all other criteria for the issuance of an
- 7 administrative subpoena as set forth by New Mexico law are met.

8 (4) The Executive Director must obtain authorization from  
9 the Board in order to issue a subpoena. A simple majority vote of the  
10 membership of the Board in favor is required before a subpoena may be  
11 issued.

12 (5) Subpoenas shall be served in a manner that complies  
13 with all requirements for administrative subpoenas under New Mexico Law.

14 (6) A subpoena must provide at least 14 calendar days'  
15 notice prior to the deadline for responding to the subpoena to:

- 16 (a) the subpoenaed person or entity;
- 17 (b) any individual or entity that is the subject of
- 18 subpoenaed records; and
- 19 (c) the City Attorney for the City of Albuquerque.

20 (7) The subpoena and notice to third parties must include a  
21 citation to this section and state that the recipient has the opportunity to  
22 challenge the subpoena to the Board or in the district court having  
23 jurisdiction.

24 (8) The summoned person or entity or any person or entity  
25 that is the subject of subpoenaed records may petition the Board or the  
26 district court of the county where he or she resides to vacate or modify the  
27 administrative subpoena.

28 (9) In the case of a refusal to obey a subpoena issued to  
29 any person, the Director may make application to the District Court in the state  
30 having jurisdiction to order the witness to appear before the Board and to  
31 produce evidence if so ordered, or to give testimony touching on the matter in  
32 question.

33 (10) Any summoned person may, at his or her own expense,

1 be represented by legal counsel during all CPOA or Board proceedings.

2 (11) The CPOA and Board shall not disclose any record  
3 obtained as a result of a subpoena that is protected or confidential by law,  
4 ordinance, policy, or the CASA.

5 [(K) Job Description. The Board shall draft a job description that  
6 informs members of their roles, responsibilities, and specific  
7 expectations of a CPOA Board member. The Board shall present the job  
8 description to the City Council for final approval. Each member of the  
9 CPOA Board shall sign the job description to affirm their understanding  
10 of their obligations to the Board.]

11 § 9-4-1-6 CPOA ADMINISTRATIVE OFFICE.

12 (A) The staff and administration of the CPOA shall be directed by  
13 the CPOA Executive Director ~~[(the "Director")]~~.

14 (B) In addition to any other duties expressed or implied by this  
15 article the Director shall:

16 (1) [Direct and oversee the investigation of Independently  
17 investigate, or cause to be investigated,] all civilian police complaints [alleging  
18 officer misconduct] and prepare findings and recommendations for review by  
19 the Board [for informational purposes];

20 (2) Review and monitor [a representative sampling of] all  
21 Internal Affairs investigations and other administrative investigations related  
22 to officer involved shooting investigations and serious uses of force  
23 investigations. The Director shall prepare ~~[and submit]~~ findings and  
24 [disciplinary] recommendations ~~[to the Board ,as appropriate,]~~ relating to  
25 officer involved shootings and serious uses of force~~[, and. Disciplinary~~  
26 recommendations, if any, will be transmitted to the Chief only upon approval  
27 of the Board. The Director] shall report on general trends and issues  
28 identified through monitoring or auditing of Internal Affairs;

29 (3) Provide staffing to the Board and ensure that the duties  
30 and responsibilities of the CPOA are executed in an efficient manner, and  
31 manage the day to day operations of the CPOA.

32 (C) The Administrative Office will receive and process all civilian  
33 complaints [of officer misconduct] directed against the Albuquerque Police

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1 Department ~~[and any of its officers]~~. The Director shall [direct and oversee the  
2 investigation of all civilian complaints alleging officer misconduct  
3 ~~independently investigate]~~ and make findings and recommendations for  
4 ~~[review by the Board for]~~ such civilian complaints, or assign them for  
5 independent investigation by CPOA staff or an outside independent  
6 investigator. If assigned to staff or an outside investigator, the Director shall  
7 oversee, monitor and review all such investigations and findings for each. All  
8 findings relating to civilian complaints, officer involved shootings, and serious  
9 uses of force shall be forwarded to [APD internal affairs and to] the Board for  
10 its ~~[review and approval. For all investigations, the~~ information. The] Director  
11 shall make recommendations and give advice regarding Police Department  
12 policies and procedures to the Board [in the context of investigative findings]  
13 as the Director deems ~~[advisable~~ appropriate].

14 (1) ~~[Investigation of all~~ The review and assessment of]  
15 civilian complaints filed with the CPOA shall begin immediately after  
16 complaints are filed~~[-and.]~~ [If the complaint alleges officer misconduct and  
17 requires investigation, it shall] proceed as expeditiously as possible, and if an  
18 investigation exceeds a timeframe of nine months [from the date the complaint  
19 was first received] the Director must report the reasons to the Board; and

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

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

30 (4) The Director shall monitor all claims of officer involved  
31 shootings and serious uses of force. No APD related settlements in excess of  
32 \$25,000 shall be made for claims without the knowledge of the Director. The  
33 Director shall be an ex-officio member of the Claims Review Board; and

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- 1 (5) All investigations shall be thorough, objective, fair,  
2 impartial, and free from political influence; and
- 3 (6) The Director shall maintain and compile all information  
4 necessary to satisfy the CPOA's semi-annual written reporting requirements in  
5 § 9-4-1-10; and
- 6 (7) If at any point during an investigation the investigator  
7 determines that there may have been criminal conduct by any APD personnel,  
8 the investigator shall immediately notify the APD Internal Affairs Bureau  
9 commanding officer and transfer the administrative investigation to the  
10 Internal Affairs Bureau. ~~[The CPOA may review the IA investigation and  
11 continue processing the complaint at any time upon the conclusion of any  
12 criminal proceeding.]~~
- 13 (D) The Director shall have access to any Police Department  
14 information or documents that are relevant to a civilian's complaint, or to an  
15 issue which is ongoing at the CPOA.
- 16 (E) The Administrative Office shall staff, coordinate and provide  
17 technical support for all scheduled Board meetings, publicize all findings and  
18 reports, recommendations, and/or suggested policy changes.
- 19 (F) The Director [, or the Director's designee,] shall play an active  
20 public role in the community, and whenever possible, provide appropriate  
21 outreach to the community, publicize the civilian complaint process, and  
22 identify locations within the community that are suitable for civilians to file  
23 complaints in a non-police environment.
- 24 (G) The Director shall be provided the necessary professional  
25 and/or clerical employees for the effective staffing of the Administrative Office,  
26 and 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 Board and lead the  
31 Administrative Office; [direct and oversee the investigation of all civilian  
32 complaints relating to officer misconduct independently investigate or  
33 supervise all investigations of civilian complaints], audit [a representative

1 sampling of] all IA investigations of complaints, recommend and participate in  
2 mediation of certain complaints, and supervise all CPOA staff.

3 (l) The Director shall complete the initial and ongoing training  
4 requirements for Board members as prescribed by § 9-4-1-5(F) and report  
5 completion of training activities to the Chair of the Board.

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

8 (A) Qualifications for the position of Director shall [~~minimally~~]  
9 include the requirement of a master's or law degree and relevant  
10 experience [~~in criminal investigations~~].

11 (B) The Director will be a full-time at will city employee directly  
12 responsible only to the Board, to be selected, removed, or reviewed as  
13 follows:

14 (1) The Board, through CPOA staff, shall accept  
15 applications from candidates. The Board shall review the applications and  
16 interview candidates, and submit to the City Council the candidate that it finds  
17 to be the best qualified to be the Director. Upon a vacancy in the position of  
18 Director, the Board shall submit its recommended replacement to the City  
19 Council within 6 months.] The Board's recommendation to Council shall be  
20 based on the candidates' integrity, capability for strong management and  
21 abilities in investigations, law, management analysis, public administration,  
22 criminal justice administration or other closely related fields. The Board's  
23 transmittal of its recommendation to the Council shall, at a minimum, include  
24 an evaluation of all the candidates against the provisions and requirements of  
25 this subsection 9-4-1-7 and identify in writing the basis for its selection as  
26 compared to other candidates. The City Council may decline to confirm the  
27 Board's recommended candidate only for reasonable cause, including but not  
28 limited to lack of a reasonable evaluation process, or lack of a substantive  
29 basis for the Board's recommendation.

30 (2) In lieu of recommending a new candidate to the Council,  
31 the Board may recommend to the Council the reconfirmation of the incumbent  
32 Director. Together with any recommendation for reconfirmation by the Board,  
33 the Board shall submit to the City Council a written basis for its

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1 recommendation to include a formal evaluation of the Director's past  
2 performance, including an evaluation against the duties established for the  
3 Director by this article. Should the Council decline to reconfirm the incumbent  
4 Director, the Council President shall notify the Board that it needs to provide  
5 the Council with an alternate candidate pursuant to the provisions of  
6 subsection (B)(1), and the Board shall so submit within 90 days of such notice.  
7 The City Council may decline to reconfirm the incumbent Director only for  
8 reasonable cause, including but not limited to any failure to fulfill all the  
9 requirements obligations of this article, or ineffective leadership of the  
10 organization in its mission toward civilian police oversight. Should the  
11 Director not be reconfirmed or should any confirmation vote be delayed or  
12 postponed for any reason, the current Director may continue to serve in the  
13 same capacity until a new Director is selected and confirmed by the City  
14 Council. ~~[If for any reason there is a period of time during which there is no~~  
15 ~~Director, the City Council may appoint a temporary Director by a majority vote.~~  
16 ~~A temporary Director shall serve in that capacity only for a period not to~~  
17 ~~exceed six months, during which time the Board shall work diligently to select~~  
18 ~~a permanent Director.~~

19 (3) The Director's compensation shall be established by the  
20 Board in consultation with the City Human Resources Department, and shall  
21 be commensurate and competitive with salaries for comparable positions  
22 within the city and other equivalent agencies in peer municipalities.

23 ~~(3)~~(4) The term of the Director shall be for three years.  
24 Once confirmed, the Director may be removed only upon: 1) a  
25 recommendation of removal to the City Council by the affirmative vote of two-  
26 thirds of the members of the Board; and 2) acceptance of the Board's  
27 recommendation by a simple majority vote of the City Council.

28 (5) If for any reason there is a period of time during which  
29 there is no Director, the City Council may appoint a temporary Director by a  
30 majority vote. A temporary Director shall serve in that capacity only for a  
31 period not to exceed six months, during which time the Board shall work  
32 diligently to select a permanent Director.

33 (6) The Director shall establish and maintain written

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1 guidance on who within the Agency will serve in the Director’s stead during  
2 any temporary absences, such as during personal or sick leave.]

3 (C) The Board shall annually review the performance of the  
4 Director taking into consideration the obligations and duties prescribed by  
5 this article~~[, the criteria outlined in Section 9-4-1-7(B)(1),]~~ and the performance  
6 of the Administrative Office. [The Board is encouraged to consult with City  
7 Human Resources to develop evaluation tools as necessary.] A summary of  
8 these performance evaluations shall be delivered to the Chief of Police, the  
9 Mayor, and the President of the City Council for receipt by the Council.

10 § 9-4-1-8 CIVILIAN COMPLAINT PROCEDURES.

11 (A) Any person claiming to be aggrieved by actions of the police  
12 may file a written complaint against the department or any of its officers.  
13 Neither the Board nor any of its members shall file or initiate a complaint on  
14 behalf of a member of the public. ~~[Any Board member who files or otherwise~~  
15 ~~initiates a complaint shall recuse from taking any action on the complaint,~~  
16 ~~including evaluating the complaint and voting on its disposition. The Board~~  
17 ~~shall submit rules and regulations governing civilian complaint procedures to~~  
18 ~~the City Council for approval, including rules and regulations relative to time~~  
19 ~~limits, notice and other measures to insure impartial review of civilians'~~  
20 ~~complaints against members of the police department.]~~ Anonymous  
21 complaints shall be accepted.

22 (B) In cooperation with the Board, the Mayor shall designate  
23 civilian city staff to receive written civilian complaints at various locations  
24 throughout the city. The Police Department may also receive written  
25 complaints. The party who receives the complaint shall immediately transmit  
26 all civilian complaints for further [review investigation] to the Director.

27 (C) After the [review investigation] of a civilian complaint is  
28 completed, the Director shall analyze all relevant and material circumstances,  
29 facts and evidence gathered under the investigation. For each investigation,  
30 the Director shall prepare [or cause to be prepared] investigation reports with  
31 [proposed] findings and recommendations [, if any,] and submit them to [the  
32 civilian complainant and to] the Board for its ~~[review and consideration~~  
33 information]. In addition to the findings and recommendation, each

1 investigation report shall at a minimum also include: 1) a section outlining any  
2 relevant background and facts relating to the matter, 2) a listing of any  
3 relevant policies, procedures, or practices that are at issue, and 3) an analysis  
4 of the issues in the case. The Director may ~~[share any submit]~~ disciplinary  
5 recommendations ~~[with to]~~ the Chief of Police ~~[in advance of their submission~~  
6 ~~to only upon approval by]~~ the Board ~~[only as necessary to, but may submit~~  
7 ~~them in advance for informational purposes to]~~ help ensure timeliness  
8 pursuant to any applicable personnel or union contract requirements.

9 (D) ~~[The~~ When the Director proposes to submit disciplinary  
10 recommendations to the Chief of the police, the] Board shall review the  
11 proposed ~~[findings and disciplinary]~~ recommendations at any properly noticed  
12 regular or special meeting. The Board shall adopt and follow rules for such  
13 reviews that implement the requirements of this article and ensure fairness  
14 and completeness in its reviews. For purposes of these reviews, the Board  
15 members shall, at a minimum, adhere to the following standards of conduct:

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

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

26 (3) Refrain from prejudgment on ~~[complaints~~ discipline]  
27 coming before the board until such time as all relevant information has been  
28 reviewed and considered at a properly noticed meeting, and recuse from any  
29 hearing in which he or she has a direct or indirect personal conflict of interest  
30 or cannot otherwise accord a fair and impartial review, or in which such  
31 member's participation would create the appearance of impropriety or  
32 partiality.

33 (E) After the Board has completed its review, it shall by majority

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1 vote of members present [~~1) approve the findings and recommendations as~~  
2 ~~proposed; 2) approve other findings and recommendations as determined by~~  
3 ~~the Board and supported by the investigation file; or 3) defer action on the~~  
4 ~~matter to allow for further investigation or analysis on specifically identifiable~~  
5 ~~matters by the Director. As part of its review, the full investigation file shall be~~  
6 ~~made available to the Board~~ decide whether or not to authorize the  
7 submission of the Director’s disciplinary recommendations to the Chief of  
8 Police. For purposes of this vote, the Board is considering only whether to  
9 authorize the submission of the Director’s disciplinary recommendation to the  
10 Chief. As part of this decision, the Board may consider the merits of the  
11 underlying claims, the soundness of the findings supporting the  
12 recommendation, and the justness of the recommendations].

13 (F) Upon approval [of disciplinary recommendations] [~~of findings~~  
14 ~~and recommendations~~] by the Board, the Director shall prepare and submit a  
15 public record letter to the civilian complainant, with a copy to the Chief of  
16 Police, that outlines the findings and [any disciplinary] recommendations [~~as~~  
17 ~~approved~~]. Unless a hearing is requested by the civilian complainant  
18 [pursuant to Section 9-4-1-9, below], within 30 days of receipt of the decision  
19 of the Board the Chief of Police shall notify the Board and the original civilian  
20 complainant of his or her final disciplinary decision in this matter in writing, by  
21 certified mail and as otherwise prescribed by § 9-4-1-4(C)(3)(g).

22 § 9-4-1-9 REQUESTS FOR HEARING; APPEALS OF DISCIPLINARY  
23 DECISIONS.

24 (A) Requests for Hearing. Any person who has filed a civilian  
25 complaint and who is dissatisfied with the findings and/or recommendations  
26 [~~approved by the Board~~ of the Director] may request [~~reconsideration a~~  
27 hearing] by the Board within 30 days (inclusive of weekends and holidays) of  
28 receipt of the [~~public record letter~~ Director’s findings letter]. [~~The Board may~~  
29 ~~grant a request for reconsideration only upon a showing by the complainant~~  
30 ~~that: 1) a policy was misapplied in the evaluation of the complaint; 2) that the~~  
31 ~~findings or recommendations were arbitrary, capricious or constituted an~~  
32 ~~abuse of discretion, or 3) that the findings and recommendations were not~~  
33 ~~consistent with the record evidence.] The Board shall notify the Chief of Police~~

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1 of the request for hearing and hold a hearing on the matter at its next regularly  
2 scheduled meeting provided that there is a period of at least ten days between  
3 the receipt of the request for hearing and the next Board meeting. Any such  
4 appeals shall be reviewed in accordance with standards of conduct prescribed  
5 by § 9-4-1-8(D). Upon close of the hearing the Board may modify or change the  
6 findings and/or recommendations of the public record letter and may make  
7 further recommendations to the Chief of Police regarding the findings and/or  
8 recommendations and any discipline imposed by the Chief of Police or  
9 proposed by the Chief of Police only upon a showing by the complainant that:  
10 1) a policy was misapplied in the evaluation of the complaint; 2) that the  
11 findings or recommendations were arbitrary, capricious or constituted an  
12 abuse of discretion, or 3) that the findings and recommendations were not  
13 consistent with the record evidence. The request must be made by the  
14 complainant]. Within 20 days of receipt of the decision of the Board, the Chief  
15 of Police shall notify the Board and the original civilian complainant of his or  
16 her final disciplinary decision in this matter in writing, by certified mail.

17 (B) Appeals of the [Final] Disciplinary Decision. If any person who  
18 has filed a civilian complaint under §§ 9-4-1-1 through 9-4-1-14 is not satisfied  
19 with the final disciplinary decision of the Chief of Police or any matter relating  
20 to the Chief of Police's handling of his or her complaint, he or she may request  
21 that the Chief Administrative Officer review the complaint, the [findings  
22 disciplinary recommendation] of the Board and the action of the Chief of  
23 Police by requesting such review in writing within 30 days (inclusive of  
24 weekends and holidays) of receipt of the Chief of Police's letter pursuant to §  
25 9-4-1-9(A). Upon completion of his or her review, the Chief Administrative  
26 Officer shall [within 90 days,] take any action necessary, including overriding  
27 the decision of the Chief of Police regarding disciplinary action, to complete  
28 the disposition of the complaint. The Chief Administrative Officer shall notify  
29 in writing, by certified mail, the complainant, the individual against whom the  
30 complaint was filed, the Chief of Police and the Director, of the results of his  
31 or her review and any action taken.

32 § 9-4-1-10 REPORTS.

33 The CPOA shall be responsible for regularly informing the Mayor, the

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1 City Council, and the public by submitting semi-annual written reports that  
2 include but are not limited to the following information:

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

5 (B) Discussion of issues of interest undertaken by the Board  
6 which may include suggested policy and/or procedural changes, a listing of  
7 complaints and allegations by Council District, statistical ethnicity of subject  
8 officers, statistical ethnicity of complainants, and updates on prior issues  
9 and/or recommendations;

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

13 (D) Information on all public outreach initiatives undertaken by the  
14 Board or the Director such as speaking engagements, public safety  
15 announcements, and/or public information brochures on the oversight  
16 process;

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

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

22 (G) The amount of time that the Board dedicated to the policy  
23 activities prescribed by § 9-4-1-4(C)(5) relative to its other activities over the  
24 past quarter[; and

25 (H) Training progress for each Board member, verifying  
26 completion of the initial and on-going training requirements for each Board  
27 member].

28 [~~§ 9-4-1-11 EVALUATION.~~

29 ~~Contingent upon funding, in the first six months of 2016 and at least~~  
30 ~~every four years thereafter, from adoption of §§ 9-4-1-1 through 9-4-1-14, the~~  
31 ~~City Council shall issue a Request for Proposal for an independent consultant~~  
32 ~~to undertake a complete evaluation and analysis of the entire police oversight~~  
33 ~~process, and recommend any necessary changes or amendments that would~~

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1 ~~appropriately improve the process.]~~

2 § 9-4-1-~~[12 11]~~ SPECIAL MEETINGS.

3 On the petition of 1,000 or more civilians in the City of Albuquerque  
4 filed in the Office of the City Clerk, the Board shall hold a special meeting for  
5 the purpose of responding to the petition and hearing and inquiring into  
6 matters identified therein as the concern of the petitioners. Copies of the  
7 petition shall be filed with the Board by the City Clerk. Notice of such meeting  
8 shall be given in the same manner as notice is given for other meetings of the  
9 Board and shall comply with the State Open Meetings Act.

10 § 9-4-1-~~[13 12]~~ CONFIDENTIALITY.

11 The Board hearing process shall be open to the public to the extent  
12 legally possible so that it does not conflict with state or federal law. However,  
13 upon the opinion of the CPOA Attorney that the law permits such action, some  
14 of the details of the investigations of the Director, or the designated  
15 independent investigator, shall become privileged and confidential. The  
16 details of investigations should not be open to the public subject to the  
17 opinion of the CPOA Attorney and the Director. Compelled statements given to  
18 the Director, or the designated independent investigator, will not be made  
19 public. The Director may summarize conclusions reached from a compelled  
20 statement for the report to the Board and the Chief of Police, and in the public  
21 record letter sent to the complainant. Nothing in this article affects the ability  
22 of APD to use a compelled statement in a disciplinary proceeding.

23 § 9-4-1-~~[14 13]~~ MANDATORY COOPERATION AGREEMENT.

24 The City Council believes that full participation and cooperation of all  
25 parties involved is essential to the success of the new police oversight  
26 process, and that APD hereby agrees and understands that its full cooperation  
27 is necessary, hereby agrees to mandate that its officers provide honest and  
28 truthful responses to all questions by the Director, CPOA staff or the  
29 designated independent investigator. If any officer refuses to answer the  
30 questions proposed to him or her by the Director, CPOA staff, or the  
31 independent investigator, he or she may be subject to termination or  
32 disciplinary action at the discretion of the Chief of Police. Compelled  
33 statements given to the Director, CPOA staff or the designated independent

1 investigator, by a police officer will be used only for the Director's  
2 investigation and the closed session review of the investigation file by the  
3 Board, if any. The actual statement will remain confidential and will not be  
4 included in a final report. The Director may summarize conclusions reached  
5 from a compelled statement for the investigation report and in the public  
6 record letter to the complainant.”

7 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
8 clause, word or phrase of this ordinance is for any reason held to be invalid or  
9 unenforceable by any court of competent jurisdiction, such decision shall not  
10 affect the validity of the remaining provisions of this ordinance. The Council  
11 hereby declares that it would have passed this ordinance and each section,  
12 paragraph, sentence, clause, word or phrase thereof irrespective of any  
13 provision being declared unconstitutional or otherwise invalid.

14 SECTION 3. COMPILATION. The ordinance amendment prescribed by  
15 SECTIONS 1, 2, 3, and 4 shall amend, be incorporated in and made part of the  
16 Revised ordinances of Albuquerque, New Mexico, 1994.

17 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five days  
18 after publication by title and general summary.

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