

CITY of ALBUQUERQUE

TWENTY FOURTH COUNCIL

COUNCIL BILL NO. O-21-78 ENACTMENT NO. _____

SPONSORED BY: Bassan, Benton, Davis, Sena

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 ~~[conduet~~ misconduct], monitor and report on police internal
8 affairs matters, provide staffing to the Board, and manage the day to day
9 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.

32 (3) Professional Legal Services. The CPOA may retain or
33 employ independent legal counsel on a contractual basis to advise and

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1 represent the CPOA. If so retained, the CPOA's legal counsel shall represent
2 the CPOA in the courts, and shall advise the CPOA as to any legal matters
3 relating to §§ 9-4-1-1 through 9-4-1-14 and the CPOA's duties, responsibilities,
4 and procedures except for CPOA personnel matters which shall remain under
5 the authority of the City Attorney's Office.

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

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

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

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

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

32 (3) Investigations. The Administrative Office shall
33 independently investigate all civilian complaints [alleging officer misconduct];

1 shall audit and monitor [a representative sampling of] all incidences of use of
2 force by police and all matters under investigation by APD's Internal Affairs
3 (IA) or other APD personnel tasked with conducting administrative
4 investigations related to a use of force incident; and shall prepare proposed
5 findings and recommendations on all officer involved shootings and serious
6 uses of force as defined by Article III, Paragraph 12, Subsection (qq) (or as
7 subsequently amended) of the court-approved DOJ Settlement Agreement
8 with the City of Albuquerque ("Serious Uses of Force").

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

31 (b) APD shall provide Board members, the Director,
32 and CPOA staff with reasonable access to APD premises, files, documents,
33 reports and other materials that are reasonably necessary for the agency to

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1 perform thorough, independent investigations of civilian complaints and
2 reviews of serious uses of force and officer-involved shootings. However, any
3 material protected from disclosure by law shall remain within the custody and
4 control of APD at all times and will be handled in accordance with the
5 applicable legal restrictions.

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

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

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

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

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

29 [(h) Summary Disposition of Complaints. The Director
30 shall develop and implement a policy that specifies those complaints other
31 than misconduct that may be resolved informally or through mediation.
32 Administrative closing or inactivation of a complaint investigation shall be
33 used for the most minor policy violations that do not constitute a pattern of

1 misconduct, duplicate allegations, or allegations that even if true would not
2 constitute misconduct.]

3 (4) Reports to Mayor & Council. The CPOA shall submit a
4 semi-annual written report to the Mayor and City Council according to § 9-4-1-
5 10 herein. The CPOA Executive Director shall provide a quarterly oral report to
6 the City Council at a regular or special meeting. The oral report shall at a
7 minimum address community outreach efforts, agency progress and
8 initiatives, [any outstanding Board vacancies and the most forthcoming term
9 expiration(s) of any Board member(s), and the status of board members
10 having satisfied their training requirements,] together with any of the agency's
11 issues or concerns.

12 (5) CPOA Policy Recommendations. The CPOA shall
13 engage in a long-term planning process through which it identifies major
14 problems or trends, evaluates the efficacy of existing law enforcement
15 practices in dealing with the same, analyzes and evaluates data (including
16 APD raw data), innovative practices, national trends, and police best practices,
17 and establishes a program of resulting policy suggestions, recommendations,
18 and studies each year. APD shall provide Board members, the Director, and
19 CPOA staff with reasonable access to APD premises, files, documents,
20 reports, data (including APD raw data), and any other materials that are
21 reasonably necessary for this purpose. For purposes of this article, "APD raw
22 data" includes but is not limited to any facts and statistics or other data
23 gathered, obtained, or that are otherwise within the possession of APD before
24 being processed or analyzed; "police best practices" refers to law
25 enforcement methods or techniques based upon the experiences and
26 outcomes in other police departments or law enforcement agencies that have
27 documented superior results compared to other practices, and to
28 recommendations by recognized research and policy development groups,
29 forums, consortiums, or similar. The CPOA shall redact any personal
30 identification information from any APD raw data within its possession as
31 permitted by law prior to its release to the public. The CPOA's policy
32 recommendation process shall be as follows:

33 (a) Policy Recommendations Originating from the

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1 CPOA. The Board shall review and analyze policy suggestions, analysis,
2 studies, and trend data collected or developed by the Administrative Office,
3 and shall by majority vote recommend policies relating to training, programs
4 and procedures or other matters relating to APD. Any such policy
5 recommendations shall be supported by specific, written findings of the Board
6 in support of the proposed policies. The Board's policy recommendations
7 shall be submitted to APD and to the City Council. The Board shall dedicate a
8 majority (more than 50%) of its time to the functions described in this
9 subsection.

10 (b) Policy Proposals by APD. APD shall provide all
11 policy proposals passed by the APD Policy and Procedures Review Board to
12 the Board for its review, comment, and recommendations prior to final
13 adoption.

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

21 (d) Within six months of its appointment, the Board
22 shall draft and approve policies, rules and procedures that ensure that the
23 Board is effectively accomplishing its duties under this Article.

24 (e) The chair of the Board shall designate one Board
25 member to serve on each APD policy development committee. The Director
26 and the Board member designated by the Chair shall each serve as voting
27 members and representatives of the Board on such committees, and shall
28 report back to the Board about the outcomes and votes cast at the next
29 regularly scheduled meeting of the Board.

30 § 9-4-1-5 THE CPOA POLICE OVERSIGHT BOARD.

31 (A) Composition. The Board shall be composed of nine at-large
32 members who broadly represent the diversity and demographics of the city by
33 way of, including but not limited to, cultural, gender and geographic diversity;

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1 and who are representative of the stakeholders of the police oversight
2 process, and who reside within the City of Albuquerque.

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

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

16 (C) Appointment of Members. The City Council shall establish a
17 well-publicized, fair and equitable application process for appointment to the
18 Board, and for filling vacancies. The City Council, through its staff, shall
19 accept applications from prospective Board members. Staff shall formulate
20 recommendations for appointments based on evaluation of the qualification
21 criteria listed in subsections (A) and (B) above and submit recommendations
22 for appointment(s) to the City Council for its approval. Staff shall establish
23 written policies and procedures for its administration of this process. If a
24 member is eligible for reappointment, that member may request
25 reappointment without a formal application process and the City Council may
26 reappoint accordingly. ~~The City Council shall report out its progress on filling~~
27 ~~CPOA Board vacancies on a quarterly basis.~~

28 (D) Timeline for Filling of Vacancies. The Director shall notify the
29 President of the City Council of a forthcoming vacancy on the Board at least
30 sixty days prior to the expiration of a Board Member's term, and within five
31 days of the resignation of a Board member. The City Council shall act on an
32 appointment to fill the vacancy within sixty days of the Council President's
33 receipt of notice from the Director. In the event that the City Council fails to act

1 within this timeframe, the Council's staff shall transmit the pending
2 applications of the qualified candidates to the Mayor, and the Mayor shall
3 make an appointment to fill the vacancy from amongst the candidates.]

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

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

13 (1)]The appointment of any member who has been absent
14 and not excused from [~~three~~ two] consecutive regular or special meetings
15 [~~shall~~] automatically [~~expire effective~~ terminates] on the date the [~~fact of such~~
16 ~~absence is reported by the Board to the City Clerk.~~ second absence occurs.

17 (2) The appointment of any member who has not completed
18 the training required by subparagraph '(F)(2)', below, automatically terminates
19 if all initial training is not fully completed within an additional 30 day grace
20 period from the expiration of the six month deadline. However, if any training
21 is not completed because the training was not made available by the City, the
22 30-day grace period is extended to include the timeframe within which the
23 training is offered and can be reasonably completed.

24 (3) The appointment of any member who has not completed
25 the training required by subparagraph '(F)(3)', below, automatically terminates
26 if the eight hours of required on-going training is not fully completed within an
27 additional 30 day grace period of the anniversary date of the member's
28 appointment. However, if any training is not completed because the training
29 was not made available by the City, the 30-day grace period is extended to
30 include the timeframe within which the training is offered and can be
31 reasonably completed.

32 (4) The [~~City Clerk~~ Director] shall notify any member whose
33 appointment has automatically terminated and [~~shall within five days~~] report to

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1 the City Council **[President]** that a vacancy exists requiring an appointment for
2 the length of the unexpired term. **The appointment of a new member to fill the**
3 **resulting vacancy is subject to the timelines established by paragraph ‘D’,**
4 **above.**

5 (F) Orientation and Training. Upon initial appointment Board
6 members shall complete an orientation and training program consisting of the
7 following:

8 (1) Required Orientation. Prior to participation in any
9 meeting of the Board, a newly appointed member must first:

10 (a) Be trained by the CPOA staff or CPOA legal
11 counsel on CPOA policies, and procedures; and

12 (b) Attend at least one Board meeting as an observer
13 (except for reappointed members).

14 (2) Required Training. The city shall provide, and each POB
15 member shall complete, ~~[a training program~~ **twenty-four hours of training**
16 within the first six months of the member's initial appointment that consists, at
17 a minimum, of the following:

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

21 (b) Training on this ordinance and the duties,
22 obligations, and responsibilities that it imposes on Board members and the
23 CPOA;

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

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

30 (e) ~~[Training on all APD policies related to use of~~
31 ~~force, including policies related to APD's internal review of force incidents;~~

32 ~~_____ (f)] Training provided to APD officers on use of force;~~

33 ~~[(g) Completion of those portions of the APD Civilian~~

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1 ~~Police Academy that APD determines are necessary for the POB to have a~~
2 ~~sound understanding of the Department, its policies, and the work officers~~
3 ~~perform. For purposes of this training requirement, APD shall identify those~~
4 ~~portions of the standard APD Civilian Police Academy Program that are~~
5 ~~optional for POB members and shall make other aspects of the program~~
6 ~~available for POB members to complete independently;~~

- 7 ~~_____ (h) (f)] At least two APD ride-alongs[;~~
- 8 ~~_____ (i) Annual firearms simulation training;~~
- 9 ~~_____ (j) Internal Affairs training;~~
- 10 ~~_____ (k) Equity and Cultural Sensitivity training; and~~
- 11 ~~_____ (l) A briefing that identifies and explains the~~
12 ~~curriculum of all training currently received or anticipated to be received by~~
13 ~~APD officers, including any outside training not provided by the city].~~

14 (3) Required On-Going Training. Board members shall
15 receive eight hours of annual training ~~[en to include but not be limited to]~~ any
16 changes in law, policy, or training in the areas outlined under subsection (2)
17 above, as well as developments in the implementation of the 2014 DOJ
18 Settlement Agreement (or any subsequent agreements) until such time as the
19 terms of the agreement are satisfied. Board members shall also participate in
20 at least two police ride-alongs for every six-months of service on the Board.

21 (4) Recommended Training. Board members are
22 encouraged to attend conferences and workshops relating to police oversight,
23 such as the annual NACOLE conference at city expense depending on budget
24 availability. [The Director, in collaboration with the City and APD, shall
25 maintain ongoing training opportunities for members that includes:

- 26 (a) Training on all APD policies related to use of
27 force, including policies related to Completion of those portions of the APD
28 Civilian Police Academy that APD determines are necessary for the POB to
29 have a sound understanding of the Department, its policies, and the work
30 officers perform. For purposes of this training requirement, APD shall identify
31 those portions of the standard APD Civilian Police Academy Program that are
32 optional for POB members and shall make other aspects of the program
33 available for POB members to complete independently

- 1 **(b) APD's internal review of force incidents;**
- 2 **(c) Annual firearms simulation training;**
- 3 **(d) Internal Affairs training;**
- 4 **(e) Equity and Cultural Sensitivity training; and**
- 5 **(f) A briefing that identifies and explains the**
- 6 **curriculum of all training currently received or anticipated to be received by**
- 7 **APD officers, including any outside training not provided by the city.]**

8 (5) The Director shall track training progress for each Board
9 member, verify completion of the initial and on-going training requirements for
10 each Board member, and include this information for each Board member as
11 part of the semi-annual reports[, and quarterly oral reports] required by this
12 article. **[The Director may contract with outside, neutral trainers or training**
13 **resources in order to effectively implement any of the training called for in this**
14 **subsection 'F', above.]**

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

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

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

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1 however, there is no requirement for providing live television coverage.

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

8 (J) Subpoenas.

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

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

15 (3) In order to issue an administrative subpoena, the
16 Executive Director must ensure that:

- 17 (a) the inquiry is within the authority of the CPOA;
- 18 (b) the demand is not too indefinite;
- 19 (c) the information is relevant to the purpose of the
20 investigation; and
- 21 (d) all other criteria for the issuance of an
22 administrative subpoena as set forth by New Mexico law are met.

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

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

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

- 31 (a) the subpoenaed person or entity;
- 32 (b) any individual or entity that is the subject of
33 subpoenaed records; and

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1 (c) the City Attorney for the City of Albuquerque.
2 (7) The subpoena and notice to third parties must include a
3 citation to this section and state that the recipient has the opportunity to
4 challenge the subpoena to the Board or in the district court having
5 jurisdiction.

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

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

15 (10) Any summoned person may, at his or her own expense,
16 be represented by legal counsel during all CPOA or Board proceedings.

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

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

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

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

25 (1) Independently investigate, or cause to be investigated,
26 all civilian police complaints [alleging officer misconduct] and prepare
27 findings and recommendations for review by the Board;

28 (2) Review and monitor all Internal Affairs investigations
29 and 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 [disciplinary] recommendations [~~to the~~
32 Board as appropriate] relating to officer involved shootings and serious uses
33 of force[~~, and~~. Formal Disciplinary recommendations, if any, will be

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1 transmitted to the Chief only upon approval of the Board. The Director shall
2 report on general trends and issues identified through monitoring or auditing
3 of Internal Affairs;

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

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

21 (1) ~~[Investigation of all~~ The review and assessment of]
22 civilian complaints filed with the CPOA shall begin immediately after
23 complaints are filed~~[-and.]~~ [If the complaint requires investigation, it shall]
24 proceed as expeditiously as possible, and if an investigation exceeds a
25 timeframe of nine months [from the date the complaint was first received] the
26 Director must report the reasons to the Board; and

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

30 (3) Mediation should be the first option for resolution of
31 civilian police complaints. Mediators should be independent of the CPOA,
32 APD, and the city, and should not be former officers or employees of APD. At
33 the discretion of the Director an impartial system of mediation should be

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1 considered appropriate for certain complaints. If all parties involved reach an
2 agreement, the mediation is considered successful and no investigation will
3 occur; and

4 (4) The Director shall monitor all claims of officer involved
5 shootings and serious uses of force. No APD related settlements in excess of
6 \$25,000 shall be made for claims without the knowledge of the Director. The
7 Director shall be an ex-officio member of the Claims Review Board; and

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

10 (6) The Director shall maintain and compile all information
11 necessary to satisfy the CPOA's semi-annual written reporting requirements in
12 § 9-4-1-10; and

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

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

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

26 (F) The Director [, or the Director's designee,] shall play an active
27 public role in the community, and whenever possible, provide appropriate
28 outreach to the community, publicize the civilian complaint process, and
29 identify locations within the community that are suitable for civilians to file
30 complaints in a non-police environment.

31 (G) The Director shall be provided the necessary professional
32 and/or clerical employees for the effective staffing of the Administrative Office,
33 and shall prescribe the duties of these staff members. Such professional and

1 clerical employees will be classified city employees. All CPOA staff with
2 investigative duties shall be professional investigators trained in professional
3 investigation techniques and practices.

4 (H) The Director shall report directly to the Board and lead the
5 Administrative Office; independently investigate or supervise all
6 investigations of civilian complaints, audit all IA investigations of complaints,
7 recommend and participate in mediation of certain complaints, and supervise
8 all CPOA staff.

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

12 § 9-4-1-7 CPOA DIRECTOR QUALIFICATIONS, SELECTION, RETENTION
13 AND EVALUATION.

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

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

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

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

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

27 **[(3)(4)]** The term of the Director shall be for three years.
28 Once confirmed, the Director may be removed only upon: 1) a
29 recommendation of removal to the City Council by the affirmative vote of two-
30 thirds of the members of the Board; and 2) acceptance of the Board's
31 recommendation by a simple majority vote of the City Council.

32 **(5)** If for any reason there is a period of time during which
33 there is no Director, the City Council may appoint a temporary Director by a

1 majority vote. A temporary Director shall serve in that capacity only for a
2 period not to exceed six months, during which time the Board shall work
3 diligently to select a permanent Director.

4 (6) The Director shall establish and maintain written
5 guidance on who within the Agency will serve in the Director's stead during
6 any temporary absences, such as during personal or sick leave.]

7 (C) The Board shall annually review the performance of the
8 Director taking into consideration the obligations and duties prescribed by
9 this article and the performance of the Administrative Office. A summary of
10 these performance evaluations shall be delivered to the Chief of Police, the
11 Mayor, and the President of the City Council for receipt by the Council.

12 § 9-4-1-8 CIVILIAN COMPLAINT PROCEDURES.

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

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

29 (C) After the investigation of a civilian complaint is completed, the
30 Director shall analyze all relevant and material circumstances, facts and
31 evidence gathered under the investigation. For each investigation, the Director
32 shall prepare [or cause to be prepared] investigation reports with proposed
33 findings and recommendations [, if any] and submit them to [civilian

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

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

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

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

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

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

14 (F) Upon approval [~~of findings and recommendations by the~~
15 ~~Board,~~] the Director shall prepare and submit a public record letter to the
16 civilian complainant, with a copy to the Chief of Police, that outlines the
17 findings and [any formal disciplinary] recommendations [~~as approved~~]. Unless
18 a hearing is requested by the civilian complainant[pursuant to Section 9-4-1-6,
19 below], within 30 days of receipt of the decision of the Board the Chief of
20 Police shall notify the Board and the original civilian complainant of his or her
21 final disciplinary decision in this matter in writing, by certified mail and as
22 otherwise prescribed by § 9-4-1-4(C)(3)(g).

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

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

1 with the record evidence. The Board shall notify the Chief of Police of the
2 request for hearing and hold a hearing on the matter at its next regularly
3 scheduled meeting provided that there is a period of at least ten days between
4 the receipt of the request for hearing and the next Board meeting. Any such
5 appeals shall be reviewed in accordance with standards of conduct prescribed
6 by § 9-4-1-8(D). Upon close of the hearing the Board may modify or change the
7 findings and/or recommendations of the public record letter and may make
8 further recommendations to the Chief of Police regarding the findings and/or
9 recommendations and any discipline imposed by the Chief of Police or
10 proposed by the Chief of Police. Within 20 days of receipt of the decision of
11 the Board, the Chief of Police shall notify the Board and the original civilian
12 complainant of his or her final disciplinary decision in this matter in writing, by
13 certified mail.

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

28 § 9-4-1-10 REPORTS.

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

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

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

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

9 (D) Information on all public outreach initiatives undertaken by the
10 Board or the Director such as speaking engagements, public safety
11 announcements, and/or public information brochures on the oversight
12 process;

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

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

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

21 ~~§ 9-4-1-11 EVALUATION.~~

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

28 § 9-4-1-~~12~~ 11 SPECIAL MEETINGS.

29 On the petition of 1,000 or more civilians in the City of Albuquerque
30 filed in the Office of the City Clerk, the Board shall hold a special meeting for
31 the purpose of responding to the petition and hearing and inquiring into
32 matters identified therein as the concern of the petitioners. Copies of the
33 petition shall be filed with the Board by the City Clerk. Notice of such meeting

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1 shall be given in the same manner as notice is given for other meetings of the
2 Board and shall comply with the State Open Meetings Act.

3 § 9-4-1-~~13~~ 12] CONFIDENTIALITY.

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

16 § 9-4-1-~~14~~ 13] MANDATORY COOPERATION AGREEMENT.

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

33 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,

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

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

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

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