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1 A hearing officer shall have a minimum of five years of experience as an
2 attorney, be admitted to practice law in the State of New Mexico, and have an
3 understanding of administrative law.

4 Section 4. SCOPE

5 Hearing officers shall conduct all hearings required by an ordinance,
6 administrative instruction or otherwise to be conducted by "a hearing officer,"
7 "a city hearing officer," "the hearing officer," "the city hearing officer," or "the
8 independent office of hearings." The hearing officers established by this
9 ordinance shall not hear the following: Land use, zoning or liquor license
10 matters. If a board or commission votes to assign a matter to a hearing officer
11 for a recommendation, the matter will be heard by a hearing officer under this
12 ordinance unless, upon request from the board or commission, the Mayor
13 appoints another hearing officer on the grounds that a certain expertise is
14 required.

15 Section 5. SELECTION

16 The Mayor shall designate a city hearing officer or officers who shall be
17 non-classified exempt City employees in the Office of the City Clerk. The
18 Mayor may additionally retain contract hearing officers, subject to the
19 approval of the City Council. Hearing officers who are non-classified exempt
20 City employees shall not engage in outside employment or representation of
21 clients without express approval from the Mayor.

22 Section 6. DUTIES

23 (A) Hearing officers are bound by this Code of Ordinances, the Code of
24 Judicial Conduct, and the Rules of Professional Responsibility.

25 (B) Hearing officers are required to disclose to the parties any matter that
26 could be considered a conflict of interest with their duty to render fair and
27 impartial decisions.

28 (C) Hearing officers shall refrain from engaging in any ex-parte
29 communication with any party or their counsel, except by express agreement
30 of the parties or for non-substantive communication involving scheduling or
31 procedure.

32 (D) As required under the New Mexico Constitution, no hearing officer
33 shall preside over any matter in which any party is related to the hearing

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1 officer by affinity or consanguinity within the degree of first cousin, or in
2 which the hearing officer has an interest, pecuniary or otherwise.

3 **Section 7. REQUEST FOR HEARING AND NOTICE OF SETTING**

4 A request for hearing shall be filed with the City Clerk. The party
5 requesting the hearing shall provide the City Clerk with a mailing address. A
6 request for hearing is not valid until received by the City Clerk. Upon receipt
7 of the request for hearing, the City Clerk shall designate a hearing officer and
8 schedule the time and place for the hearing. The City Clerk shall mail or
9 deliver the notice of hearing to the parties. The mailing of the notice to the
10 address provided by the party requesting the hearing constitutes receipt of
11 the notice on the third day after the mailing date. Hand delivery of the notice
12 constitutes receipt of the notice on the date of delivery.

13 **Section 8. DISQUALIFICATION**

14 **(A) *General Rules.***

15 (1) If there is a disqualification, excusal or recusal under this Section
16 and an ordinance limits the time for a hearing to commence, the time limit is
17 waived by the requesting party and the City Clerk may toll the running of the
18 time limit for all parties for a reasonable time.

19 (2) Multiple parties with a common interest in the matter constitute a
20 single party for purposes of this section.

21 (3) There is no interlocutory review by the district court of
22 discretionary rulings under this section.

23 (4) Hearing officers are required to disclose any matter to the parties
24 that could be considered a conflict of interest with their duty to render fair and
25 impartial decisions. Once such a disclosure has been made on the record, the
26 parties to that proceeding may, but are not obligated to, waive such a potential
27 or apparent conflict. If the parties do not waive the potential or apparent
28 conflict, the hearing officer shall recuse himself and the City Clerk shall select
29 an alternate hearing officer and mail or deliver a notice of alternate
30 assignment and resetting to the parties.

31 **(B) *Peremptory Excusal.*** Each party may peremptorily excuse one hearing
32 officer within ten days of the receipt of the notice for hearing unless the time
33 for hearing under the applicable ordinance is less than ten days in which case

1 each party may peremptorily excuse one hearing officer within two days of
2 receipt of the notice of hearing. Upon receipt of a peremptory excusal, the
3 City Clerk shall select an alternate hearing officer and mail or deliver a notice
4 of alternate assignment and resetting to the parties. Except for non-
5 substantive communication involving scheduling or procedure, a party shall
6 not excuse a hearing officer after the hearing has begun or after the hearing
7 officer has performed any discretionary act in the matter.

8 (C) *Disqualification and Excusal for Cause.*

9 (1) The hearing officer may disqualify themselves, before a hearing
10 or after a hearing has begun, for any reason by providing written notice of
11 recusal to the City Clerk, who shall appoint an alternate hearing officer and
12 mail or deliver an alternate assignment and notice of resetting.

13 (2) Any party may file a timely and sufficient motion to excuse for
14 cause, supported by affidavit, requesting that the hearing officer recuse
15 themselves. The motion shall incorporate an affidavit setting forth the alleged
16 personal bias or prejudice of the hearing officer. An adverse ruling by the
17 hearing officer in the present matter or a prior matter is not of by itself a
18 showing of bias. The hearing officer shall render a decision on the matter
19 within ten days. If the hearing officer recuses themselves after receipt of the
20 motion described in this paragraph, the City Clerk shall assign an alternate
21 hearing officer.

22 (3) If, upon receipt of a motion to excuse for cause, the hearing
23 officer denies the motion, the hearing officer shall render, file and serve a
24 decision not to recuse with the City Clerk providing the rationale for denying
25 the motion. A party has ten days from the date of the filing of the decision not
26 to recuse to file a petition for review of the decision with the City Clerk. The
27 Mayor or the Mayor's designee shall affirm or reverse the decision not to
28 recuse. The Mayor may but is not required to refer the matter to another
29 hearing officer to hold a hearing and make a recommendation to the Mayor
30 regarding whether good cause for recusal has been shown. A hearing officer
31 who recommends reversal of a decision not to recuse shall not be assigned to
32 hear the matter on the merits. If the decision not to recuse is reversed, the
33 City Clerk shall refer the matter to an alternate hearing officer and mail or

1 deliver a notice of alternate assignment and resetting. There shall be no
2 peremptory excusal or motion to recuse an alternate.

3 Section 9. HEARING.

4 (A) *Discovery*. There shall be no interrogatories, requests for production
5 of documents, requests for admissions or depositions unless the hearing
6 officer allows these discovery methods under exceptional circumstances. The
7 hearing officer may order the parties to produce witness and exhibit lists in
8 advance of a hearing. The hearing officer may order the parties to make
9 evidence available for inspection by the opposition prior to the hearing. The
10 parties are encouraged to stipulate to the authenticity of exhibits prior to the
11 hearing.

12 (B) *Telephonic Testimony*. Live testimony is preferred. The hearing officer
13 may allow a witness to testify by telephone. Exhibits may be offered through a
14 telephonic witness as long as the exhibits were provided to the opposition
15 at least two days before the hearing.

16 (C) *Evidence*. Hearing officers may admit any evidence and may give
17 probative effect to evidence that is of a kind commonly relied on by
18 reasonably prudent people in the conduct of serious affairs. The hearing
19 officer may exclude incompetent, irrelevant, immaterial and unduly repetitious
20 evidence. The rules of privilege shall be applicable to the same extent as in
21 proceedings before the courts of this state. Documentary evidence may be
22 received in the form of copies or excerpts. Hearing officers may take notice of
23 judicially cognizable facts and in addition may take notice of general, technical
24 or scientific facts.

25 (D) *Record Proper*. The record in an administrative hearing shall include,
26 at the minimum:

- 27 (1) The notices, pleadings, motions and intermediate rulings;
28 (2) The documentary evidence offered and admitted; and
29 (3) A written decision.

30 (E) *Transcript*. Administrative Hearings shall be electronically recorded. A
31 party may arrange at their own expense for the hearing to be stenographically
32 recorded.”

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1 SECTION 2. REPEAL. The Independent Hearing Officer Ordinance is
2 hereby repealed.

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

10 SECTION 4. COMPILATION. This Ordinance shall be incorporated in and
11 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

12 SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect five days
13 after publication by title and general summary.

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City of Albuquerque
Office of Management and Budget
Office of Internal Audit

Interoffice Memorandum

May 2, 2012

To: Robert J. Perry, Chief Administrative Officer

From: Chris Payton, Executive Budget Analyst – Office of Management & Budget
Lawrence L. Davis, Principal Auditor, Office of Internal Audit

Subject: Office of Administrative Hearings; Administrative Investigation and Internal Audit/Budget/Performance Review

Attached is the administrative performance review for the Office of Administrative Hearings (OAH). The primary goals of the review were to evaluate OAH program performance, staffing levels, work flows, workloads of various employees, administrative structure, supervision policies, work-hours/scheduling and other relevant administrative areas of the OAH.

The performance review provides a brief history, evaluation of primary activities and associated recommendations to address the current issues of OAH. In addition, the review provides a historical observation of OAH's leadership. As a result, we propose the Chief Administrative Officer and City Council consider the organizational restructuring plans outlined within the attached document.

CP/LD

Attachment: Administrative Performance Review - Office of Administrative Hearings

xc: Gilbert Montano, Deputy CAO, Office of the Mayor/CAO
David Tourek, City Attorney, Legal Department
Greg Wheeler, Special Programs Director, Asst. City Attorney, Legal Department
Lou Hoffman, Director, Department of Finance and Administration
Gerald Romero, Budget Officer, Office of Management and Budget
Vincent Yermal, Director, Human Resources Department
Carmen Kavelman, Director, Office of Internal Audit

Office of Administrative Hearings Review - April 17 through May 2, 2012

The following conditions are derived from observations and interviews conducted on April 17, 2012 through May 2, 2012 by Chris Payton, Executive Budget Analyst with the Office of Management and Budget and Lawrence Davis, Principal Auditor with the Office of Internal Audit. The primary goals for the analysis were to evaluate the Office of Administrative Hearings (OAH) program performance, staffing levels, work flows, workloads of various employees, administrative structure, supervision policies, work-hours/scheduling, and any other relevant administrative areas of OAH.

SUMMARY

In 2007, OAH became an independent office of the City of Albuquerque. OAH conducts hearings for 29 City ordinances. During the last five years, the vast majority of hearings have been generated from vehicle and forfeiture seizures, Safe Traffic Operations Program, zoning, disabled parking and labor/personnel board hearings. OAH has experienced a significant reduction in the amount of hearings over the last three fiscal years. However, staffing levels and operational objectives remain unchanged. It is apparent that OAH's leadership has not adequately managed the operations and resources within the department. As a result, we propose the Chief Administrative Officer and City Council consider the organizational restructuring plans outlined within this document.

OAH Statistics	FY/07	FY/08	FY/09	FY/10	FY/11	FY/12
Total Scheduled Hearings	12,022	14,965	10,326	8,831	7,421	4,214
Hearing Officers	2	2	2	3	3	3
Support Staff	5	9	9	6	8	7
Scheduled Hearings per Hearing Officer	6,011	7,483	5,163	2,944	2,474	1,405

Note: Scheduled hearings are not actual hearings heard. Hearing officers are only required at an actual hearing. Scheduled hearings can be settled, cancelled, or rescheduled. This evaluation could not accurately determine what percentage of scheduled hearings result in actual "heard" hearings.

FULL REPORT

In 2007 the Albuquerque City Council adopted O-07-81 to create the Independent Office of Hearings (hereafter referred to as the Office of Administrative Hearings or "OAH"). City Council found that the City of Albuquerque had a large number of ordinances calling for hearings to be conducted by hearing officers. For the majority of these hearings there was no provision for how the hearing officer was to be selected. As a result, OAH was created and the Chief Hearing Officer was given the autonomy to manage the operations and duties of the department without actual or perceived influence from the City's administration or Council. The ordinance was amended by City Council in 2009 under O-09-78 to conform to state legislation.

Office of Administrative Hearings Review - April 17 through May 2, 2012

The following provides a brief history and current processes for the primary hearings conducted at OAH. It was essential to gain a clear understanding of OAH's functional areas and current operations to inform our recommendations.

PRIMARY HEARINGS

Vehicle Seizure and Forfeiture (VSF)

In 2003, the Albuquerque City Council adopted O-02-72, providing for the temporary seizure and immobilization of a vehicle following the second offense of driving under the influence of intoxicating liquor or drugs. Originally, the time period for requesting a hearing was 4 days but was subsequently changed to 10 days by O-04-57.

VSF Hearing Process

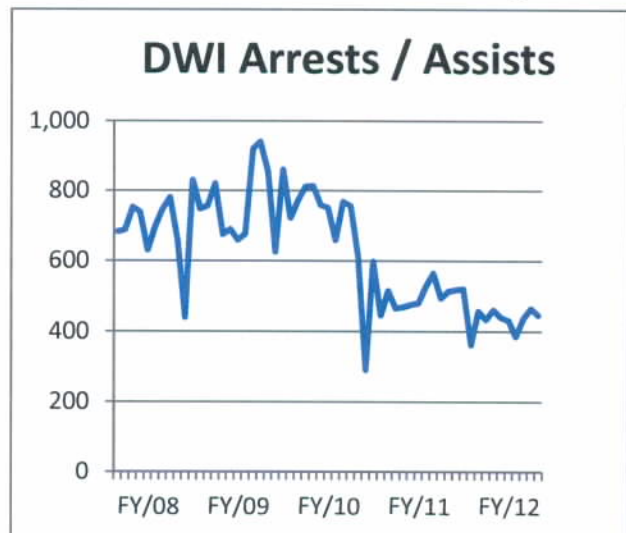
Duty	Completed By
Request for hearing received	Support Staff
Issuance of notice of hearing	Support Staff
Creates labels and sends letters to vehicle seizure lot and legal	Support Staff
Create and prepare files	Support Staff
Updating and maintain database information	Support Staff
Creation of docket	City Legal
Disclaimer or vehicle release agreement	City Legal
Conduct the hearing	Hearing Officer Hearing Monitor Support Staff
Post hearing actions	Hearing Officer City Legal

The assistant city attorney prepares the docket for the VSF hearings, which are scheduled from 8:30 to 3:30 on Wednesday, Thursday and partial Fridays, if necessary. Although VSF hearings are scheduled during these timeframes, the majority of these cases are settled, cancelled, or rescheduled before they rise to the level of an actual hearing. This results in a small amount of actual hearings, which limits the involvement of OAH staff.

Stanley Harada was hired in April of 1999 and was charged with restoring the VSF Program. Mr. Harada has performed the vast majority of these hearings from 2003 to present. Anita Reina was

Mr. Harada's primary backup followed by Roberto Albertorio. The process for VSF hearings is provided above. The assistant city attorney presides over the entire process and will then call in a hearing officer and monitor when an actual hearing is necessary. The Sr. office assistant (receptionist) greets attendees of the hearings (defendant, vehicle owner, defense attorney, and guests) and presents the file to the hearing officer. This file includes the request for hearing form, notice of seizure and any other pertinent documents for the hearing.

Though the number of hearings peaked in 2009 with 2,048 scheduled hearings (see table on top of page 3), VSF hearings continue to average approximately 30 per week. Police grants such as 100 Days and Nights of Summer, Drunkbuster enforcement, Operation DWI, and the Underage



Office of Administrative Hearings Review - April 17 through May 2, 2012

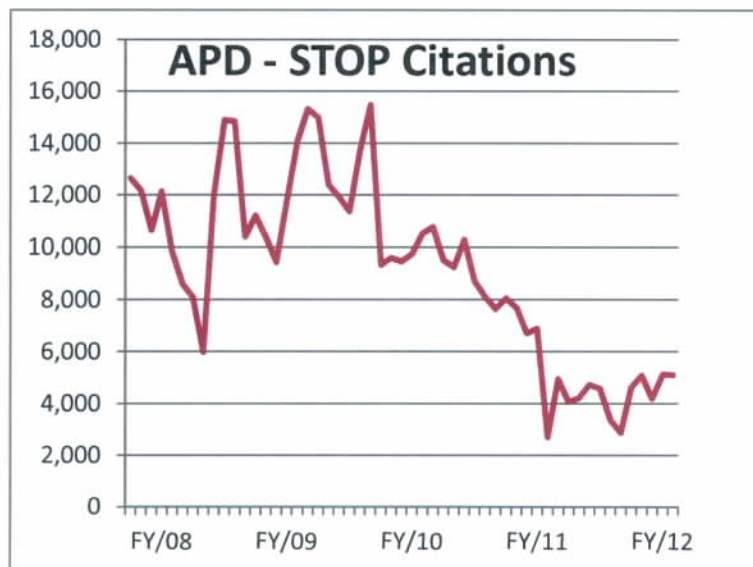
Drinking grant further enhance the daily priority the Police Department places on monitoring DWI infractions. The graph on page 2 represents DWI arrests/assists which directly impacts the number of vehicle seizure hearings captured in the table below.

HEARING TYPE	FY/07	FY/08	FY/09	FY/10	FY/11	FY/12
Scheduled VSF Hearings	1,531	1,732	2,048	1,797	1,468	1,512

In addition, Mr. Harada has streamlined the verdict paperwork needed for each hearing. The hearing officer does not perform research or write-up prior to a hearing nor after the hearing. Thus, the hearing officer simply attends the hearing and delivers a decision based upon the facts presented at the hearing. If an appeal is made, paperwork will be prepared by support staff.

Safe Traffic Operations Program (STOP)

In 2005, the Albuquerque City Council adopted provisions in O-05-145 to abate the nuisances of street intersection crashes caused by drivers who ignore and run red lights and harm children by drivers who ignore school zone speed limits by assessing fines for these traffic violations. Originally, fines for the first violation were \$100, \$250 for the second and \$500 for the third. The offender could request a hearing or



simply pay the fine within 20 days. In 2007, O-07-74 changed the fines to \$100, \$200, \$300 for 1st, 2nd, and 3rd violations respectively and extended the request for hearing or payment to 35 days. In 2008, O-07-114 changed the 1st red light fine to \$69. And finally in 2009, O-09-79 changed fines for speed and red light infractions to \$75 to conform to state statutory requirements. With the reduction of the fine to \$75 the number of hearings requested dramatically decreased.

Prior to July 2009, Stanley Harada was the primary hearing officer for the STOP hearings. During this time there was a large backlog (35,000) of STOP hearings. OAH performed hearings five days a week, Monday through Friday, including once-a-month night court sessions till 10pm. During the day, two hearing rooms were set up. Mr. Harada would bounce back and forth between hearing rooms throughout the day, in order to accommodate the volume of these hearings. However, Mr. Harada also had assistance from independent contractors during this timeframe. Night court hearings were conducted by Roberto Albertorio and independent contractors.

HEARING TYPE	FY/07	FY/08	FY/09	FY/10	FY/11	FY/12
Scheduled STOP Hearings	9,563	12,102	7,245	5,901	4,121	1,961

Office of Administrative Hearings Review - April 17 through May 2, 2012

In July 2009, Anita Reina was appointed as the sole hearing officer for STOP hearings. State regulations altered the process of the hearings, which now required a pre-trial session prior to the official hearing. At this point, night court sessions were no longer necessary.

STOP Program Process

Duty	Completed By
Citations received and entered in database	Support Staff
Schedule STOP citations for hearing	Support Staff
File according to hearing date	Support Staff
Create agenda, enter into calendar and send out hearing letters	Support Staff
Pretrial conference/settlements	Support Staff
Conduct hearing	Hearing Officer Hearing Monitor
Decision and order	Support Staff
Hearing officer signature	Hearing Officer
Post hearing actions	Support Staff

At the pre-trial hearing, 10 individuals would be on a per hour docket. Ms. Reina would provide a general overview of the pre-trial hearing as well as the potential hearing prior to the start of each session. Ms. Reina would then leave and wait to be called back for the actual hearing. The majority of offenses would be settled during the pretrial process; as the defendant reviewed the video and evidence displayed by the officer. The offender would then choose to pay the fine or request community service. If the defendant requested a hearing it would be heard in a separate hearing room. These sessions usually ran from 9am till 3:30pm Tuesday through Friday with afternoon

sessions on Monday. The chart above outlines the STOP program process. Each week there were generally two full days and three half days of scheduled hearings.

In the summer of 2011, the number of STOP hearings began to diminish because of the suspension of the STOP program speeding fines in November 2010. Two employees experienced a significant decrease in their workload during this time; Anita Reina, the primary hearing officer, and Anita Bustos-Rubi, the paralegal, who handled all paperwork assimilation, filing, and was the first point of contact to address public inquiries for the STOP program. Ms. Reina now held 2 half-days of scheduled hearings. As a result, Ms. Bustos-Rubi's workload began to diminish as well and did not demand a full-time position. For example, the number of STOP hearings decreased 46 percent in comparing the months July 2010 to July 2011. At the time of our interview, Ms. Bustos-Rubi stated she had nothing to do despite her attempt to request work from Roberto Albertorio. Currently, STOP hearings have significantly diminished since the red light cameras were turned off in December of 2011 and residual citations will be phased out by the end of FY12.

Zoning Hearings

When OAH was setup in 2007, zoning hearings were designated as a responsibility of the OAH. Roberto Albertorio was designated as the Zoning Hearing Examiner and then alternated these duties with Anita Reina on a month to month basis beginning January 2011. Zoning hearings are conducted on the third Tuesday of every month and usually contain 30 to 60 cases per docket. The vast majority of the preparation and post hearing functions of the zoning hearing process are completed by an individual staff member, which includes the writing and preparation of the Notification of Decision verdicts.

OAH staff stated that the review process prior to zoning hearings should take no longer than one to two days for a hearing officer familiar with zoning regulations, however this process is currently being performed by the Ombudsman in a limited fashion. For example, the Ombudsman reviews zoning files and creates notes and questions for the hearing office to ask within hearings. In addition, staff stated that drafts of the official notice of decisions contain minimal edits prior to the hearing officer's approval. As a result, the monthly time demand for the zoning hearing officer is approximately five days, however based upon our interviews and observations it appears to have been a two day process for Mr. Albertorio.

If an appeal is filed, support staff prepares the zoning hearing minutes and delivers the necessary documentation to planning department for appeal preparation.

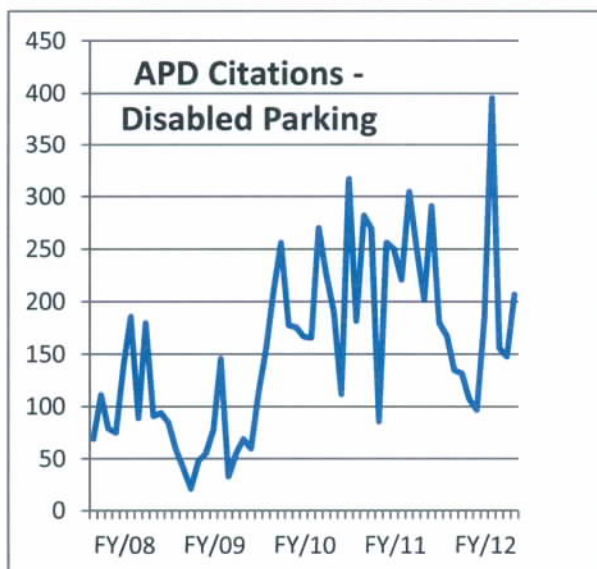
Zoning Hearing Process

Duty	Completed By
Pre-application review	Support Staff
Legal ad preparation	Support Staff
Final approval of legal ad	Ombudsman
File and case preparation	Support Staff
Agenda creation	Support Staff
Site visits	Support Staff
File review and note creation	Ombudsman
Conduct hearing	Hearing Officer Hearing Monitor
Create of official notice of decision – Draft	Support Staff
Official notice of decision - final review	Hearing Officer
ZHE signature	Hearing Officer
Mailing of final decisions	Support Staff
File appeal	Support Staff

HEARING TYPE	FY/07	FY/08	FY/09	FY/10	FY/11	FY/12
Zoning Hearings	848	895	703	667	440	364

Disabled Parking

In 2007, the Albuquerque City Council adopted provisions in O-07-65 to abate the nuisance of illegal use of handicapped parking spaces, setting fines, and providing enforcement. Fines were originally set at \$250 for the 1st offense, \$350 for the second offense and \$500 for the third and subsequent offenses. If a fine was not paid or a hearing requested within 30 days, the owner of the vehicle would be in default



and any police officer discovering a vehicle with an uncured default in the City could immobilize the vehicle. In 2009, O-09-77 changed fines to \$350 for each offense and default was limited only to collection of a debt. It was at this time that OAH became responsible for disabled parking hearings.

The Disabled Parking Hearing Process is illustrated in the table on the top of page six. After OAH receives citations they are entered into an internal database by the senior office assistant. Database details includes recording of payment, requests for hearing, dismissal, community service, and pending

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decisions. Defendants often submit paperwork in hopes of having the violation dismissed by the hearing officer. The dismissal occurs outside the hearing process. Hearings are scheduled by a designated individual in the office with access to metro court scheduling. This individual transferred from OAH in March 2012. Currently, OAH has 384 disabled parking requests for hearings. Hearings have not been scheduled since November 2011. It is unclear why a support staff employee has not been assigned scheduling duties.

In addition, once a disabled parking violation goes into default meaning the registered owner has not paid nor filed a request for hearing, there are no remedial actions or processes to send a Notice of Default. OAH has all of the necessary documentation, but O-09-77 does not specify which department is responsible for sending the Notice of Default. Unclear designation within the ordinance may be a contributing factor for the lack of follow-up activities. According to OAH's database, 3,310 of 9,796 citations, received from FY08 to FY12, have not requested a hearing or made payment.

Disabled Parking Hearing Process

Duty	Completed By
Citations received and entered in database	Support Staff
Filed by officer number	Support Staff
Schedule hearings	Support Staff
Create/distribute docket and mail notice of hearing letters	Support Staff
Create and prepare files and orders	Support Staff
Conduct hearing	Hearing Officer Hearing Monitor
Post hearing actions	Support Staff
Hearing officer signature	Hearing Officer

When hearings are performed by OAH, a hearing officer and hearing monitor are present. These hearings are held on any weekday and scheduling generally is based upon officer availability.

HEARING TYPE	FY/07	FY/08	FY/09	FY/10	FY/11	FY/12
Scheduled Disabled Parking Hearings	0	0	147	320	1,277	281

Labor/Personnel Board Hearings

OAH provides a hearing monitor for monthly labor and personnel board hearings. The hearing monitor is required to compile minutes from these hearings. OAH hearing officers are not present at these hearings. Independent hearing office contractors conduct these hearings. Each labor hearing has an average duration period of three hours but within the last year the duration has increased after the absence of a labor board hearing chair during calendar year 2010. If an appeal is filed, documentation is prepared by OAH staff and forwarded to the respective departments. Personnel Board hearings require the hearing monitor to schedule, research, coordinate attendees, and prepare correspondence. Personnel hearings often vary in duration. They can range from minutes to days. From 2007-2011, these duties were performed by one hearing monitor on a full-time basis.

HEARING TYPE	FY/07	FY/08	FY/09	FY/10	FY/11	FY/12
Labor Hearings	30	33	24	11	1	15
Personnel Board Hearings	50	63	65	62	31	46

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Other Hearings

OAH is responsible for presiding over 23 other City ordinances. These include, but are not limited to, Animal Breeder Permit Appeals, Public Housing/Section 8 Housing Appeals, Towed Vehicle Appeals, Vehicle Pollution Management Revocation, Wrecker Rotation Appeals, and Water Service Termination/Failure to Pay Solid Waste Fee Appeals. The number of hearings generated for the majority of these ordinances is minimal. Stanley Harada is responsible for presiding over these various hearings. In addition, a hearing monitor from OAH is present at these hearings and office staff coordinates scheduling and prepares file documentation for the hearings.

HEARING TYPE	FY/08	FY/09	FY/10	FY/11	FY/12
Other Hearings	140	94	73	83	35

HISTORICAL OBSERVATION OF LEADERSHIP

OMB and OIA did not have the opportunity to interview Roberto Albertorio before he was placed on administrative leave. Therefore, the historic accounts of Roberto Albertorio's actions are derived from the observations and OAH interviews.

When OAH was established, Roberto Albertorio was selected as the Chief Hearing Officer. Mr. Albertorio created an organizational structure that revolved around two City hearing officers and utilized hearing officer contractors when needed. Prior to FY09, Stanley Harada conducted the vast majority of OAH hearings with the exception of zoning. During this time, Mr. Albertorio was primarily responsible for two hearing officer duties per month. Mr. Albertorio conducted zoning and evening STOP hearings once per month.

Beginning in FY09, Anita Reina was appointed the sole hearing officer for the STOP hearings by the District Court. At this point, Mr. Harada conducted all hearings except for STOP and Zoning. From 2007 to present, STOP hearings have constituted approximately 71 percent of the hearings performed by OAH. Since FY09, there has been a 60 percent reduction in the number of STOP hearings. Due to the reduction in STOP hearings Ms. Reina's workload has significantly decreased over the past year. The reduction in STOP hearings has also had an impact on two support staff workers. The Ombudsman and Paralegal performed a variety of functions for the STOP program but have experienced frequent episodes of down time since the reduction in hearings. In addition, OAH has not performed remedial actions for approximately 3,310 Disabled Parking citations, received from FY08 to FY12. Throughout these various program changes, Mr. Albertorio continued to conduct once a month zoning hearings and began alternating months with Ms. Reina in January 2011.

In conclusion, it is evident that Mr. Albertorio has not adequately managed the operations and resources within the department. Mr. Albertorio did not fully comply with job duties as outlined in O-07-81. For example, O-07-81 stated the City Hearing Officer shall annually prepare a budget for the office and the City Hearing officer shall present a quarterly written report to the City Council and administration on the status of the Independent Office of Hearings including the nature of cases resolved and pending. According to the budget office, budgets have never been prepared by the City

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Hearing Office. According to City Council and administration staff, no quarterly status reports were ever submitted. In addition, resources were not realigned to address the reduction in STOP hearings or backlog of Disabled Parking citations.

RECOMMENDATIONS

- 1. Create a governing body or administratively restructure OAH to ensure the department has proper oversight. However, the form of oversight must not compromise the independence of OAH but needs to ensure the accountability and integrity of the office.**
- 2. Restructure the hearing office with the following 6 positions: Chief Hearing Officer, Accountant I, Hearing Monitor (2), Administrative Assistant, and Senior Office Assistant.**
 - Reference Attachment A for a list of specific division duties.
 - Reference Attachment B for the proposed organization chart.
- 3. Utilize independent hearing officer contractors for zoning hearings and administrative relief for the Chief Hearing Officer (estimate 600 hours per year).**
 - Reference Attachment C for the proposed process
- 4. Create and document processes and procedures for the entire disabled parking program to include scheduling and responsibilities for Notice of Default.**

ATTACHMENT A

The following are specific division duties, keeping in mind that each position will adhere to the essential functions outlined within their respective job descriptions:

Chief Hearing Officer (UNC)

- Hearing Officer for all city ordinances except for zoning
- Duties outlined under O-09-78 including preparing a yearly budget and submitting quarterly report to the City Council and administration regarding status of current hearings and processes
- Create process and procedures to restore the disabled parking program

Accountant I (E13)

- Initial budget creation and preparation of quarterly projections
- Administer and maintain contracts
- Payment voucher processing and account reconciliation processes
- Maintaining performance data including monthly statistics for hearing types
- Verify payments received for hearings
- Backup Hearing Monitor
- Monitor the disabled parking program

Hearing Monitor 1 (E13)

- Primary hearing monitor for Labor Board and Personnel Board Hearings
- Preparing agenda's, minutes, coordination of Labor Board and Personnel Board Hearings
- Provide back-up hearing monitor for vehicle seizure, disabled parking
- Backup for Zoning Hearing Process

Hearing Monitor 2 (E13)

- Primary Hearing monitor for disabled parking, vehicle seizures, and miscellaneous hearings
- Schedule disabled parking hearings
- Maintain office files
- Mail Notice of Default for disabled parking citations
- Backup for Labor Board and Personnel Board Hearings

Administrative Assistant (E12)

- Administer the monthly Zoning Hearing Process from start to finish (scheduling, site visits, file compilation)
- Supervise the Sr. Office Assistant
- Primary point of contact for any issues pertaining to the public

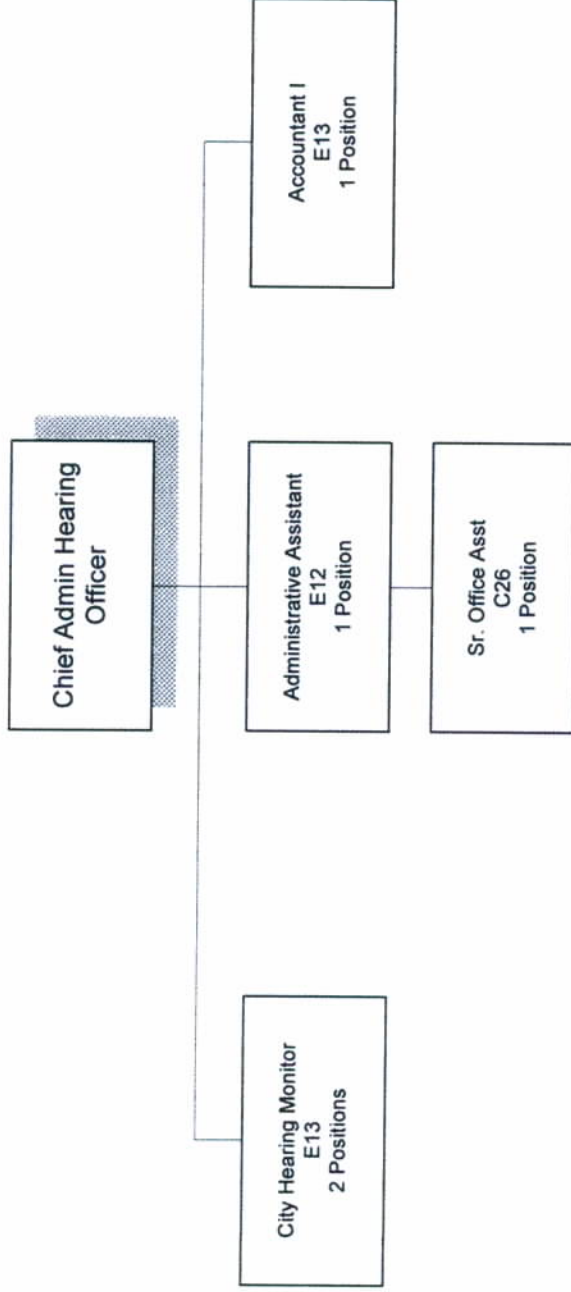
Sr. Office Assistant (C26)

- Provide front desk support greeting visitors and hearing attendees
- Receiving payments for requests for hearing
- Receiving citations for disabled parking and entering citations into internal tracking database
- Enter vehicle seizure hearing details and decisions into internal tracking database

PROPOSED

ATTACHMENT B

CITY OF ALBUQUERQUE Administrative Hearing Office



Attachment C

Zoning Hearing Process

Duty	Completed By - Current Process	Completed By - Proposed Process
Pre-application review	Support Staff	Support Staff
Legal ad preparation	Support Staff	Support Staff
Final approval of legal ad	Ombudsman	Hearing Officer
File and case preparation	Support Staff	Support Staff
Agenda creation	Support Staff	Support Staff
Site visits	Support Staff	Support Staff
File review and note creation	Ombudsman	Contracted Hearing Officer
Conduct hearing	Hearing Officer	Contracted Hearing Officer
	Hearing Monitor	Hearing Monitor
Create of official notice of decision – Draft	Support Staff	Contracted Hearing Officer
Official notice of decision - final review	Hearing Officer	Contracted Hearing Officer
ZHE signature	Hearing Officer	Contracted Hearing Officer
Mailing of final decisions	Support Staff	Support Staff
File appeal	Support Staff	Support Staff