

CITY of ALBUQUERQUE

TWENTY FIFTH COUNCIL

COUNCIL BILL NO. F/S O-22-67 ENACTMENT NO. _____

SPONSORED BY: Brook Bassan, Isaac Benton, Pat Davis, Renee Grout

1 ORDINANCE
 2 AMENDING THE POLICE OVERSIGHT ORDINANCE, CHAPTER 9, ARTICLE 4,
 3 PART 1 OF THE REVISED ORDINANCES OF ALBUQUERQUE.
 4 BE IT ORDAINED/RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF
 5 THE CITY OF ALBUQUERQUE:

6 SECTION 1. The Police Oversight Ordinance, ROA 1994, Sections 9-4-1-1
 7 through 9-4-1-13, is hereby amended as follows:

8 “§ 9-4-1-1 SHORT TITLE.

9 Sections 9-4-1-1 through 9-4-1-~~13~~ 14 may be cited as the Police Oversight
 10 Ordinance.

11 § 9-4-1-2 PURPOSE.

12 The purpose of §§ 9-4-1-1 through 9-4-1-~~13~~ 14 is to:

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

16 (B) Ensure that the civilian police oversight [~~body~~ agency] 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 for the
 20 investigations and determinations on civilian police complaints;

21 (D) Gather and analyze information, reports, and data on trends and
 22 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 Council, the
 25 Mayor and the Chief of Police for the development of policy for the
 26 Albuquerque Police Department.

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1 § 9-4-1-3 LEGISLATIVE FINDINGS.

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

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

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

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

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

24 ~~[(F) The Council hereby abolishes the POC and replaces it with a Civilian
25 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 "CPOA") as
28 an independent agency of city government, not part of either the city
29 administration or City Council, consists of the Civilian Police Oversight
30 [Agency Advisory] Board (the "Board") and an Administrative Office led by the
31 CPOA Executive Director (the "Director" or the "Executive Director"). The
32 CPOA is a critical component of police reform and oversight in Albuquerque.
33 This Part is intended to comprehensively establish and set forth the rights

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

15 (A) Independence. The CPOA is accountable to, but independent of the
16 Mayor's Office, the City Council, and the Albuquerque Police Department with
17 respect to the performance of its oversight role and duties under §§ 9-4-1-1
18 through 9-4-1-~~[13 14]~~.

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

22 (2) Budget. The CPOA shall have a dedicated [budget and independent
23 ~~source of funding, administer its own]~~. [The Director shall administer the]
24 budget in compliance with state and local laws, and supervise ~~[its own]~~ staff in
25 compliance with the city's Merit Ordinance and contractual services policies
26 and procedures. The [CPOA Director] shall recommend and propose its
27 budget to the Mayor and City Council during the city's budget process to carry
28 out the powers and duties under §§ 9-4-1-1 through 9-4-1-~~[13 14]~~, including
29 itemized listings for the funding for staff and all necessary operating
30 expenses. Adequate funding shall be provided to uphold the ability of the
31 CPOA to carry out its duties and support its staff and operating expenses.

32 (3) Professional Legal Services. [The CPOA shall select independent legal
33 counsel from the conflict counsel list maintained by the Office of the City

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1 Attorney. The CPOA's legal counsel shall be independent from legal counsel
2 for APD and shall advise and represent both the Agency and the Board.] [The
3 ~~CPOA may retain or employ independent legal counsel on a contractual basis~~
4 ~~to advise and represent the CPOA. If so retained, the~~ The] CPOA's legal
5 counsel shall represent the CPOA in the courts, and shall advise the CPOA as
6 to any legal matters relating to §§ 9-4-1-1 through 9-4-1-~~13~~ 14] and the CPOA's
7 duties, responsibilities, and procedures except for CPOA personnel matters
8 which shall remain under the authority of the City Attorney's Office.

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

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

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

20 (1) Community Outreach. The CPOA shall develop, implement, and from
21 time to time amend as necessary, a community outreach program. [~~program~~
22 ~~of community outreach aimed at soliciting public input from the broadest~~
23 ~~segment of the community in terms of geography, culture, ethnicity, and~~
24 ~~socio-economics. The CPOA shall employ or designate a full time staff~~
25 ~~member within the Administrative Office dedicated to community outreach~~
26 ~~efforts.]~~ The CPOA shall report its community outreach efforts to the City
27 Council as part of its reporting under § 9-4-1-~~10~~ 11].

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

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

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

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1 notice of any such vote permitting the Director to proceed in such
2 circumstances to APD and the police officer involved.

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

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

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

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

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

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

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

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1 of Police Reform] disagrees, or any other basis upon which the [~~Chief Office of~~
2 Police Reform] declined the Director's disciplinary recommendation. The
3 CPOA shall report data regarding the outcomes of all disciplinary
4 recommendations, to include whether the [~~Chief Office of Police Reform]~~
5 imposed the recommended discipline, as part of its quarterly oral reports, as
6 outlined in § 9-4-1-4(C)~~[(3) (4)]~~.

7 ~~[(g) (h)]~~ Summary disposition of complaints. The Director shall develop
8 and implement a policy that specifies those complaints~~[, other than officer~~
9 ~~misconduct,]~~ that may be ~~[resolved informally or through~~ administratively
10 closed or referred to] mediation. Administrative closing or inactivation of a
11 complaint investigation shall be used for the most minor policy violations that
12 do not constitute a pattern of misconduct, duplicate allegations, allegations
13 which are too broad and/or lack any specificity, ~~[or]~~ allegations that even if
14 true would not constitute officer misconduct~~[, allegations regarding events~~
15 that occurred several years before the complaint was filed, or allegations by
16 an individual who files repeated complaints that the Director has determined
17 to be without merit].

18 ~~[(3) (4)]~~ Reports to Mayor & Council. The CPOA shall submit a semi-
19 annual written report to the Mayor and City Council according to § 9-4-1-~~[10~~
20 11] herein. The CPOA Executive Director shall provide a quarterly oral report
21 to the City Council at a regular or special meeting. The oral report shall at a
22 minimum address community outreach efforts, agency progress and
23 initiatives, data regarding actual disciplinary outcomes imposed by the [~~Chief~~
24 of Police Office of Police Reform] as compared to [~~CPOA the Director's~~
25 disciplinary recommendations, any outstanding Board vacancies and the most
26 forthcoming term expiration(s) of any Board member(s), together with any of
27 the agency's issues or concerns.

28 ~~[(4) (5)]~~ CPOA Policy Recommendations. [The CPOA may make
29 recommendations on policy to the Chief of Police.] ~~[The CPOA shall engage in~~
30 ~~a long-term planning process through which it identifies major problems or~~
31 ~~trends, evaluates the efficacy of existing law enforcement practices in dealing~~
32 ~~with the same, analyzes and evaluates data (including APD raw data),~~
33 ~~innovative practices, national trends, and police best practices, and~~

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1 ~~establishes a program of resulting policy suggestions, recommendations, and~~
2 ~~studies each year.]~~ APD shall provide [~~Board members, the Director, and~~
3 ~~CPOA staff~~ the CPOA] with reasonable access to APD premises, files,
4 documents, reports, data (including APD raw data), and any other materials
5 that are reasonably necessary for this purpose. For purposes of this article,
6 "APD raw data" includes but is not limited to any facts and statistics or other
7 data gathered, obtained, or that are otherwise within the possession of APD
8 before being processed or analyzed; "police best practices" refers to law
9 enforcement methods or techniques based upon the experiences and
10 outcomes in other police departments or law enforcement agencies that have
11 documented superior results compared to other practices, and to
12 recommendations by recognized research and policy development groups,
13 forums, consortiums, or similar. The CPOA shall redact any personal
14 identification information from any APD raw data within its possession as
15 permitted by law prior to its release to the public. The CPOA's policy
16 recommendation process shall be as follows:

17 (a) [Community Policing Council Review and Analysis. Policy proposals
18 from APD will be distributed to each Community Policing Council ("CPC") for
19 comment. Each CPC wishing to submit comments or recommendations must
20 submit them to the Director within fifteen (15) days. In making its final policy
21 recommendations, the Board shall review and take into consideration any
22 timely submitted comments and recommendations of the CPCs.]

23 [~~Policy Recommendations Originating from the CPOA. The Board shall~~
24 ~~review and analyze policy suggestions, analysis, studies, and trend data~~
25 ~~collected or developed by the Administrative Office, and shall by majority vote~~
26 ~~recommend policies relating to training, programs and procedures or other~~
27 ~~matters relating to APD. Any such policy recommendations shall be supported~~
28 ~~by specific, written findings of the Board in support of the proposed policies.~~
29 ~~The Board's policy recommendations shall be submitted to APD and to the~~
30 ~~City Council. The Board shall dedicate a majority (more than 50%) of its time~~
31 ~~to the functions described in this subsection.]~~

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

4 (c) The Chief of Police or designee shall respond to policy
5 recommendations made by the CPOA pursuant to paragraph~~s 'a' or~~ 'b' above
6 in writing within 45 days of final action on a policy by APD. As part of this
7 response, APD shall indicate whether the Board's policy recommendation will
8 be followed through standard operating procedures or should be adopted as
9 policy by the City Council, or specifically explain any reasons why such policy
10 recommendations will not be followed or were not adopted.

11 (d) The Board [~~, in consultation with the Director,~~] shall review and
12 update as appropriate its policies, rules and procedures that ensure that the
13 Board is effectively accomplishing its duties under this Article on an annual
14 basis. [Any policies, rules, and procedures shall be adopted in accordance
15 with ROA 1994, Section 2-6-1-4(C)(2). The Board shall present its proposed
16 policies, rules, and procedures to the City Council for final approval. In the
17 event that the City Council determines that the Board's proposal fails to
18 ensure the Board is effectively accomplishing its duties, the City Council may
19 modify them as appropriate. Annual updates will become effective only upon
20 final approval of the City Council.] Updates outside of its annual review will
21 become effective only upon a 2/3 vote of the membership of the Board [and
22 only upon final approval by the City Council, as submitted or as amended by
23 the Council].

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

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

31 (A) Composition. The Board shall be composed of [~~nine~~ five] 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 forth above,
4 the following are the minimum qualifications for members of the Board:

5 (1) Have not been employed by APD [~~law enforcement~~] for at least three
6 years prior to appointment, or have not been employed by other law
7 enforcement departments for at least one year prior to appointment. [~~This~~
8 ~~provision shall apply only to Board members who are appointed after the~~
9 ~~effective date of Council Bill No. O-21-78~~]; and

10 (2) Successfully pass a background check; and

11 (3) Personal history lacking any pattern of unsubstantiated complaints
12 against APD; and

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

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

16 (6) Residency within the City of Albuquerque.

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

28 (D) Timeline for Filling of Vacancies. The Director shall notify the President
29 of the City Council of a forthcoming vacancy on the Board at least 60 days
30 prior to the expiration of a Board member's term, and within five days of the
31 resignation of a Board member. The City Council shall act on an appointment
32 to fill the vacancy within 60 days of the Council President's receipt of notice
33 from the Director.

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

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

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

15 (1) The appointment of any member who has been absent and not
16 excused from three consecutive regular or special meetings automatically
17 terminates on the date the third consecutive absence occurs.

18 (2) The appointment of any member who has not completed the training
19 required by subparagraph (G)(2), below, automatically terminates if all initial
20 training is not fully completed within an additional 30-day grace period from
21 the expiration of the six[-]month deadline, or one-year deadline to complete
22 the Civilian Police Academy. However, if any training is not completed
23 because the training was not made available by the city, the 30-day grace
24 period is extended to include the timeframe within which the training is offered
25 and can be reasonably completed.

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

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1 (4) The ~~[Director~~ Contract Compliance Officer] shall notify any member
2 whose appointment has automatically terminated and shall within five days
3 report to the City Council President that a vacancy exists requiring an
4 appointment for the length of the unexpired term. The appointment of a new
5 member to fill the resulting vacancy is subject to the timelines established by
6 paragraph (E), above.

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

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

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

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

15 (2) Required Training. The city shall provide, and each Board member
16 shall complete, a training program within the first six months of the member's
17 initial appointment, unless a different deadline is stated, that consists, at a
18 minimum, of the following:

19 (a) Training on the 2014 DOJ Settlement Agreement with the City of
20 Albuquerque (or any subsequent agreements), and Findings Letter of April 10,
21 2014 (or any subsequent findings letters);

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

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

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

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

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

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1 (g) Completion of ~~[these the following]~~ portions of the APD Civilian
2 Police Academy ~~[that APD determines are necessary for the Board to have a~~
3 ~~sound understanding of the Department, its policies, and the work officers~~
4 ~~perform]~~. This training must be completed within one year from the member's
5 initial appointment~~[, subject to the provisions of Section 9-4-1-5(F)(2), above]~~.
6 ~~[For purposes of this training requirement, APD shall identify those portions~~
7 ~~of the standard APD Civilian Police Academy Program that are optional for~~
8 ~~Board members and shall make other aspects of the program available for~~
9 ~~Board members to complete independently;]~~

10 ~~(i) Recruiting (1 hour);~~

11 ~~(ii) Basic Training (1 hour);~~

12 ~~(iii) Field Training and Evaluation (FTEP) (1 hour);~~

13 ~~(iv) Field Services (1 hour);~~

14 ~~(v) Response to Resistance (3 hours);~~

15 ~~(vi) Crisis Intervention/COAST (3 hours);~~

16 ~~(vii) Community Policing (1 hour);~~

17 ~~(viii) Impact Investigations (1 hour);~~

18 ~~(ix) Auto Theft (1 hour);~~

19 ~~(x) Active Listening and De-Escalation (3 hours);~~

20 ~~(xi) Homicide (3 hours);~~

21 ~~(xii) Horse Mounted Unit (1.5 hours);~~

22 ~~(xiii) SWAT (1.5 hours);~~

23 ~~(xiv) K-9 (1.5 hours);~~

24 ~~(xv) Less Lethal Options (3 hours);~~

25 ~~(xvi) Reality Based Training Part 1 (3 hours); and~~

26 ~~(xvii) Reality Based Training Part 2 (3 hours);]~~

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

28 (i) Internal Affairs training;

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

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1 **(k) Professionalism training that educates Board members on proper**
2 **professionalism when interacting with Agency staff and other City**
3 **employees, members of the public, and other Board members**].

4 **(3) Required On-Going Training.** Board members shall receive eight hours
5 of annual training to include but not be limited to:

6 **(a) any changes in law, policy, or training in the areas outlined under**
7 **subsection ~~[(G)]~~(2) above, as well as developments in the implementation of**
8 **the 2014 DOJ Settlement Agreement (or any subsequent agreements) until**
9 **such time as the terms of the agreement are satisfied; or**

10 **(b) [if a Board member elects to] attend~~ance at~~ the annual NACOLE**
11 **conference, [which attendance] may satisfy no more than four hours of a**
12 **Board member's on-going annual training requirements.**

13 **~~[(c)]~~ In addition to the eight hours of on-going annual training, Board**
14 **members shall also participate in at least two police ride-alongs for every six-**
15 **months of service on the Board.**

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

- 21 **(a) Annual firearms simulation training; and**
- 22 **(b) Equity and Cultural Sensitivity training;**

23 **(5) The CPOA and APD shall jointly create and maintain a Board training**
24 **calendar that outlines the dates in which the required and recommended**
25 **training opportunities outlined in this subsection (G) are available to members**
26 **of the Board. [The calendar shall be provided to the City Council for its**
27 **information within 90 days of its creation or any subsequent changes or**
28 **updates.**]

29 **(6) The ~~[Director~~ Contract Compliance Officer] shall track training**
30 **progress for each Board member, [and] verify completion of the initial and on-**
31 **going training requirements for each Board member~~, and include this~~**
32 **~~information for each Board member as part of the semi-annual reports~~**
33 **~~required by this article~~]. The Director may contract with outside, neutral**

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1 trainers or training resources in order to effectively implement any of the
2 training called for in this subsection (G), above.

3 (7) Each member of the Board shall be paid a \$500 honorarium upon
4 completion of their Initial Orientation and Training as outlined in Section 9-4-1-
5 5(G)(1)-(2). Each member of the Board shall be compensated \$250 upon
6 completion of their annual Required On-Going Training as outlined in Section
7 9-4-1-5(G)(3). The honoraria outlined within this subsection will begin in FY
8 24.]

9 (H) Chair. The Board shall elect one of its members as the Chairperson and
10 one as Vice- Chairperson, who shall each hold office for one year and until
11 their successors are elected. No officer shall be eligible to immediately
12 succeed himself or herself in the same office. Officers shall be elected in the
13 month of March of each calendar year or upon vacancy of an office to fill the
14 remaining term.

15 (I) Subcommittees. The Board may appoint such subcommittees as are
16 deemed necessary or desirable for the purposes of §§ 9-4-1-1 through 9-4-1-
17 [13 14], provided that, membership on such subcommittees shall be limited to
18 Board members and the Board shall strive to evenly distribute subcommittee
19 membership among the entire Board. [Subcommittees shall comply with the
20 New Mexico Open Meetings Act.]

21 (J) Meetings. The Board shall conduct regularly scheduled public meetings
22 in compliance with the New Mexico Open Meetings Act, with a prepared
23 agenda that is distributed in advance to the Mayor, City Council, Police Chief,
24 and City Attorney. ~~[Each Board meeting will begin with public comments. Only~~
25 ~~the regularly scheduled monthly meetings and special meetings held pursuant~~
26 ~~to submission of petitions will be televised live on the appropriate government~~
27 ~~access channel. All other meetings of the Board shall be videotaped and aired~~
28 ~~on the appropriate government access channel; however, there is no~~
29 ~~requirement for providing live television coverage.]~~

30 (1) Public Comment. The Board shall allow ~~[general public comment at~~
31 ~~each of its meetings, and the Board shall also allow]~~ comment on each of its
32 agenda items other than Citizen Police Complaints.

33 (K) Subpoenas.

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

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

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

9 (a) the inquiry is within the authority of the CPOA;

10 (b) the demand is not too indefinite;

11 (c) the information is relevant to the purpose of the investigation; and

12 (d) all other criteria for the issuance of an administrative subpoena as
13 set forth by New Mexico law are met.

14 (4) The Executive Director must ~~[obtain authorization from the Board in~~
15 ~~order to issue]~~ [consult the CPOA's legal counsel prior to issuing] a
16 subpoena. ~~[A simple majority vote of the membership of the Board in favor is~~
17 ~~required before a subpoena may be issued.]~~

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

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

22 (a) the subpoenaed person or entity;

23 (b) any individual or entity that is the subject of subpoenaed records;

24 and

25 (c) the City Attorney for the City of Albuquerque.

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

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

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

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

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

11 (L) Job Description. The ~~[Board~~ Director] shall draft a job description that
12 informs ~~[Board]~~ members of their roles, responsibilities, and specific
13 expectations of a ~~[CPOA]~~ Board member. The ~~[Board~~ Director] shall present
14 the [proposed] job description to the City Council for final approval. [In the
15 event that the City Council determines that the Director's proposal fails to
16 accurately describe the Board's duties, the City Council may amend it as
17 appropriate.] Each member of the ~~[CPOA]~~ Board shall sign the job description
18 to affirm their understanding of their obligations to the Board.

19 [(M) Stipend. Each member of the Board shall be compensated at a rate of
20 \$100 per regular meeting of the Board, not to exceed \$200 per month per
21 board member. The stipend outlined within this subsection will begin in FY
22 24.]

23 § 9-4-1-6 CPOA ADMINISTRATIVE OFFICE.

24 (A) The staff and administration of the CPOA shall be directed by the CPOA
25 Executive Director.

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

28 (1) ~~[Direct~~ Receive all citizen complaints and direct] and oversee the
29 investigation of ~~[all]~~ civilian police complaints alleging officer misconduct
30 [within the parameters of Section 9-4-1-4(C)(2)(g).] ~~[and]~~ prepare findings and
31 recommendations~~[, and provide to]~~ ~~[for review by]~~ [each CPC and] the Board
32 for informational purposes;

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1 (2) Review and monitor a representative sampling of all Internal Affairs
2 investigations and other administrative investigations related to officer
3 involved shooting investigations and serious uses of force investigations. The
4 Director shall prepare findings and disciplinary recommendations, as
5 appropriate, relating to officer involved shootings and serious uses of force.
6 Disciplinary recommendations, if any, will be transmitted to the [Chief Office
7 of Police Reform ~~only upon approval of the Board~~]. The Director shall report
8 on general trends and issues identified through monitoring or auditing of
9 Internal Affairs;

10 (3) ~~[Provide staffing to the Board and ensure~~ Ensure] that the duties and
11 responsibilities of the CPOA are executed in an efficient manner, and manage
12 the day to day operations of the CPOA.

13 (C) The Administrative Office will receive ~~[and process all]~~ civilian
14 complaints of officer misconduct directed against the Albuquerque Police
15 Department. The Director shall direct and oversee the investigation of ~~[all]~~
16 civilian complaints alleging officer misconduct [within the parameters of
17 Section 9-4-1-4(C)(2)(h),] and make findings and recommendations for such
18 civilian complaints, or assign them for independent investigation by CPOA
19 staff or an outside independent investigator. If assigned to staff or an outside
20 investigator, the Director shall oversee, monitor and review all such
21 investigations and findings for each. All findings relating to civilian
22 complaints, officer involved shootings, and serious uses of force shall be
23 forwarded to APD internal affairs [and the complainant. The findings will then
24 be sent to the chair of each CPC and] and to the Board for its information. The
25 Director shall make recommendations and give advice regarding Police
26 Department policies and procedures to [each CPC and] the Board in the
27 context of investigative findings as the Director deems appropriate.

28 (1) The review and assessment of civilian complaints filed with the CPOA
29 shall begin [immediately promptly] after complaints are filed. If the complaint
30 alleges officer misconduct and requires investigation, it shall proceed as
31 expeditiously as possible, and if an investigation exceeds a timeframe of nine
32 months from the date the complaint was first received the Director must report
33 the reasons to the ~~[Board~~ Contract Compliance Officer]; and

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1 (2) All civilian complaints filed with other offices within the city authorized
2 to accept civilian complaints, including the Police Department, shall be
3 immediately referred to the Director; and

4 (3) If appropriate, mediation should be the first option for resolution of
5 civilian police complaints. Mediators should be independent of the CPOA,
6 APD, and the City, and should not be former officers or employees of APD. At
7 the discretion of the Director an impartial system of mediation should be
8 considered appropriate for certain complaints. If all parties involved reach an
9 agreement, no investigation will occur. [If the complainant fails to participate
10 in good faith as determined by the mediator, no investigation will occur. If the
11 officer involved fails to participate in good faith as determined by the
12 mediator, the CPOA investigation will occur.] The CPOA and APD shall
13 coordinate to develop a mediation program that aims to allow civilian police
14 complainants and officers the opportunity to communicate directly regarding
15 disputes, find areas of agreement, and reach their own solutions. APD should
16 ensure that officers have mentorship resources available in advance of
17 mediation that explain the mediation process and the benefits it provides for
18 officers and their relationships with the citizens they serve; and

19 (4) The Director shall monitor all claims of officer involved shootings and
20 serious uses of force. [APD shall notify the Director of all No-APD-related]
21 settlements in excess of \$25,000 [shall be made for claims without the
22 knowledge of the Director]. [The Director shall participate, as a non-voting
23 member, in any portion of a meeting of the Claims Review Board addressing a
24 claim based on police misconduct or use of force, but shall not be present for
25 the discussion of any other claims ~~The Director shall be an ex-officio member~~
26 ~~of the Claims Review Board];~~ and

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

29 (6) The Director shall maintain and compile all information necessary to
30 satisfy the CPOA's semi-annual written reporting requirements in § 9-4-1-
31 11]; and

32 (7) If at any point during an investigation the investigator determines that
33 there may have been criminal conduct by any APD personnel, the investigator

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1 shall immediately notify the APD Internal Affairs Bureau commanding officer
2 and transfer the administrative investigation to the Internal Affairs Bureau.

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

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

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

14 (G) The Director shall be provided the necessary professional and/or
15 clerical employees for the effective staffing of the Administrative Office, and
16 shall prescribe the duties of these staff members. Such professional and
17 clerical employees will be classified city employees. All CPOA staff with
18 investigative duties shall be professional investigators trained in professional
19 investigation techniques and practices.

20 (H) The Director shall ~~[report directly to the Board and]~~ lead the
21 Administrative Office; [receive all citizen complaints and] direct and oversee
22 the investigation of ~~[all]~~ civilian complaints relating to officer misconduct
23 [within the parameters of Section 9-4-1-4(C)(2)(g),] audit a representative
24 sampling of all IA investigations of complaints, recommend and participate in
25 mediation of certain complaints, and supervise all CPOA staff.

26 (I) The Director shall complete the initial and ongoing training requirements
27 for Board members as prescribed by § 9-4-1-5(G) and report completion of
28 training activities to the ~~[Chair of the Board~~ Contract Compliance Officer].
29 § 9-4-1-7 CPOA DIRECTOR QUALIFICATIONS, SELECTION, RETENTION AND
30 EVALUATION.

31 (A) Qualifications for the position of Director shall include the requirement
32 of a master's or law degree and relevant experience.

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1 (B) The Director will be a full-time at will city employee ~~[directly responsible~~
2 ~~only to the Board,]~~ to be selected, removed, or reviewed as follows:

3 (1) The ~~[Board~~ Contract Compliance Officer], through CPOA staff, shall
4 accept applications from candidates. The ~~[Board~~ CCO] shall review the
5 applications and interview candidates~~[, and. As part of this review, the CCO~~
6 shall assemble a review and interview panel to, at a minimum, include a
7 representative of the Agency Staff, a member of the Board, and a member of a
8 CPC. The CCO shall] submit to the City Council the [names of the three]
9 candidate[s] that it finds to be the best qualified to be the Director~~[and~~
10 indicating its ranking, and the City Council shall appoint the Director from the
11 three]. Upon a vacancy in the position of Director, the ~~[Board~~ CCO] shall
12 submit its [list of] recommended replacement [candidates] to the City Council
13 within six months. The ~~[Board~~ CCO]'s recommendation[s] to Council shall be
14 based on the candidates' integrity, capability for strong management and
15 abilities in investigations, law, management analysis, public administration,
16 criminal justice administration or other closely related fields. The ~~[Board~~ CCO]
17 's transmittal of its recommendation[s] to the Council shall, at a
18 minimum, include an evaluation of all the candidates against the provisions
19 and requirements of this subsection 9-4-1-7 and identify in writing the basis
20 for ~~[its]~~ selection [of its top three candidates] as compared to other
21 candidates. The City Council may decline to confirm the ~~[Board~~ CCO]'s
22 recommended candidate[s] only for reasonable cause, including but not
23 limited to lack of a reasonable evaluation process, or lack of a substantive
24 basis for the ~~[Board~~ CCO]'s recommendation[s].

25 (2) ~~[In lieu of recommending a new candidate to the Council, the Board~~
26 ~~may recommend to the Council the reconfirmation of the incumbent Director.~~
27 ~~Together with any recommendation for reconfirmation by the Board, the Board~~
28 ~~shall submit to the City Council a written basis for its recommendation to~~
29 ~~include a formal evaluation of the Director's past performance, including an~~
30 ~~evaluation against the duties established for the Director by this article.~~
31 ~~Should the Council decline to reconfirm the incumbent Director, the Council~~
32 ~~President shall notify the Boars that it needs to provide the Council with an~~
33 ~~alternate candidate pursuant to the provisions of subsection (B)(1), and the~~

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1 ~~Board shall so submit within 90 days of such notice. The City Council may~~
2 ~~decline to reconfirm the incumbent Director only for reasonable cause,~~
3 ~~including but not limited to any failure to fulfill all the requirements obligations~~
4 ~~of this article, or ineffective leadership of the organization in its mission~~
5 ~~toward civilian police oversight. Should the Director not be reconfirmed or~~
6 ~~should any confirmation vote be delayed or postponed for any reason, the~~
7 ~~current Director may continue to serve in the same capacity until a new~~
8 ~~Director is selected and confirmed by the City Council.~~

9 (3) The Director's compensation shall be established by the [Contract
10 Compliance Officer Board] in consultation with the City Human Resources
11 Department [and taking into account the CPOA budget], and shall be
12 commensurate and competitive with salaries for comparable positions within
13 the city and other equivalent agencies in peer municipalities.

14 ~~[(3) (4) [The term of the Director shall be for three years.] Once~~
15 ~~confirmed, the Director may be removed only [upon: 1) a recommendation of~~
16 ~~removal to the City Council by the affirmative vote of two-thirds of the~~
17 ~~members of the Board; and 2) acceptance of the Board's recommendation by a~~
18 ~~simple for cause as determined by a 2/3] majority vote of the City Council.~~

19 ~~[(4) (5)] If for any reason there is a period of time during which there is no~~
20 ~~Director, the City Council may appoint a temporary Director by a majority vote.~~
21 ~~A temporary Director shall serve in that capacity only for a period not to~~
22 ~~exceed six months, during which time the [Board CCO] shall work diligently to~~
23 ~~select a permanent Director.~~

24 ~~[(5) (6)] The Director shall [establish and maintain written guidance on~~
25 ~~who within create and fill a Deputy Director position within] the Agency [will~~
26 ~~to, among other appropriate duties,] serve in the Director's stead during any~~
27 ~~[temporary vacancies in the position of Director, or other] absences, such as~~
28 ~~during personal or sick leave.~~

29 ~~[(C) The Board shall annually review the performance of the Director~~
30 ~~taking into consideration the obligations and duties prescribed by this article,~~
31 ~~the criteria outlined in § 9-4-1-7(B)(1), and the performance of the~~
32 ~~Administrative Office. The Board is encouraged to consult with City Human~~
33 ~~Resources to develop evaluation tools as necessary. A summary of these~~

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1 ~~performance evaluations shall be delivered to the Chief of Police, the Mayor,~~
2 ~~and the President of the City Council for receipt by the Council.]~~

3 § 9-4-1-8 [CONTRACT COMPLIANCE OFFICER

4 (A) The City Council shall retain an independent Contract Compliance
5 Officer (“CCO”) who shall perform the functions identified in this ordinance
6 and ensure CPOA compliance with this Ordinance and the duties and
7 obligations within the 2014 DOJ Settlement Agreement with the City of
8 Albuquerque (or any subsequent agreements), and Findings Letter of April 10,
9 2014 (or any subsequent findings letters). The CCO position shall not be held
10 by anyone who has been employed by APD or any current or past Board
11 members.

12 (B) The CCO shall annually review the performance of the Executive
13 Director, taking into consideration the obligations and duties prescribed by
14 this article and the criteria outlined in § 9-4-1-7(B)(1). The CCO shall annually
15 review the performance of the Administrative Office and the Board. The CCO
16 is encouraged to consult with City Human Resources to develop evaluation
17 tools as necessary. A summary of these performance evaluations shall be
18 delivered to the Mayor and the President of the City Council for receipt by the
19 Council. In consultation with the budget and City Human Resources, the CCO
20 shall also establish the Director’s compensation.

21 (C) The duties of the CCO shall also include, but not be limited to, the
22 following:

- 23 (1) Tracking and reporting Board progress on training requirements;
- 24 (2) Maintaining the training calendar required by § 9-4-1-5(G)(5);
- 25 (3) Tracking Board membership terms;
- 26 (4) Overseeing and monitoring timeliness of quarterly oral reports as
27 outlined in § 9-4-1-4(C)(3);
- 28 (5) Overseeing and monitoring timeliness of semi-annual reporting
29 requirements as outlined in § 9-4-1-11;
- 30 (6) Ensuring compliance with internal standards, including Board
31 Policies & Procedures and all city ordinances and policies dealing with
32 administrative functions including but not limited to those dealing with
33 personnel, the merit system, and procurements;

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1 (7) Tracking and monitoring compliance with any other deadlines
2 and/or requirements of this Ordinance and the DOJ Settlement Agreement;
3 and

4 (8) Any other such tasks as may be deemed necessary and included
5 within the CCO contract.]

6 **[§ 9-4-1-9] CIVILIAN COMPLAINT PROCEDURES.**

7 (A) Any person claiming to be aggrieved by actions of the police may file a
8 written complaint against the department or any of its officers. Neither the
9 Board nor any of its members shall file or initiate a complaint on behalf of a
10 member of the public. Anonymous complaints shall be accepted.

11 (B) In cooperation with the [Board Agency], the Mayor shall designate
12 civilian city staff to receive written civilian complaints at various locations
13 throughout the city. The Police Department may also receive written
14 complaints. The party who receives the complaint shall immediately transmit
15 all civilian complaints for further review to the Director.

16 (C) After the review of a civilian complaint is completed, the Director shall
17 analyze all relevant and material circumstances, facts and evidence gathered
18 under the investigation. For each investigation, the Director shall prepare or
19 cause to be prepared investigation reports with findings and
20 recommendations, if any, and submit them to the civilian complainant[
21 Reports, findings, and recommendations, if any, will also be submitted to the
22 CPCs] and to the Board for [its their] information. In addition to the findings
23 and recommendation, each investigation report shall at a minimum also
24 include: 1) a section outlining any relevant background and facts relating to
25 the matter, 2) a listing of any relevant policies, procedures, or practices that
26 are at issue, and 3) an analysis of the issues in the case. The Director may
27 submit disciplinary recommendations to the [Office of Police Reform. Chief of
28 Police only upon approval by the Board, but may submit them in advance for
29 informational purposes to help ensure timeliness pursuant to any applicable
30 personnel or union contract requirements.]

31 ~~[(D) When the Director proposes to submit disciplinary recommendations~~
32 ~~to the Chief of Police, the Board shall review the proposed disciplinary~~
33 ~~recommendations at any properly noticed regular or special meeting. The~~

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1 ~~Board shall adopt and follow rules for such reviews that implement the~~
2 ~~requirements of this article and ensure fairness and completeness in its~~
3 ~~reviews. For purposes of these reviews, the Board members shall, at a~~
4 ~~minimum, adhere to the following standards of conduct:~~
5 ~~— (1) Remain impartial in deliberations and decisions and abstain from any~~
6 ~~independent investigation or review of information not presented by the~~
7 ~~investigation report or within the investigation file;~~
8 ~~— (2) Refrain from any ex-parte communication relating to the matters and~~
9 ~~parties under consideration other than at a properly noticed meeting, and~~
10 ~~recuse from any related hearings as may be necessary based on any improper~~
11 ~~ex-parte communication; any ex-parte correspondence that is inadvertently~~
12 ~~received by a member shall be referred to or otherwise disclosed to the~~
13 ~~Director and, when appropriate, made available for review by the relevant~~
14 ~~complaint and APD officer or their representatives; and~~
15 ~~— (3) Refrain from prejudgment on discipline coming before the board until~~
16 ~~such time as all relevant information has been reviewed and considered at a~~
17 ~~properly noticed meeting, and recuse from any hearing in which he or she has~~
18 ~~a direct or indirect personal conflict of interest or cannot otherwise accord a~~
19 ~~fair and impartial review, or in which such member's participation would~~
20 ~~create the appearance of impropriety or partiality.~~
21 ~~— (E) After the Board has completed its review, it shall by majority vote of~~
22 ~~members present decide whether or not to authorize the submission of the~~
23 ~~Director's disciplinary recommendations to the Chief of Police. For purposes~~
24 ~~of this vote, the Board is considering only whether to authorize the~~
25 ~~submission of the Director's disciplinary recommendation to the Chief. As part~~
26 ~~of this decision, the Board may consider the merits of the underlying claims,~~
27 ~~the soundness of the findings supporting the recommendation, and the~~
28 ~~justness of the recommendations.~~
29 ~~— (F) Upon approval of disciplinary recommendations by the Board,]~~
30 [(D) When the Director submits disciplinary recommendations to the Office of
31 Police Reform,] the Director shall prepare and submit a public record letter to
32 the civilian complainant, with a copy to the [Chief of Police Office of Police
33 Reform], that outlines the findings and [any] disciplinary recommendations.

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1 Unless a hearing is requested by the civilian complainant pursuant to § 9-4-1-
2 [9 10], below, within 30 days of receipt of the decision of the [Board Director,]
3 the [~~Chief of Police~~ Office of Police Reform] shall notify the [Board Director]
4 and the original civilian complainant of his or her final disciplinary decision in
5 this matter in writing, by certified mail and as otherwise prescribed by § 9-4-1-
6 4(C)(2)(f).

7 § 9-4-1-[9 10] REQUESTS FOR HEARING; APPEALS OF DISCIPLINARY
8 DECISIONS.

9 (A) Requests for Hearing. Any person who has filed a civilian complaint and
10 who is dissatisfied with the findings and/or recommendations of the Director
11 may request a hearing by the Board within 30 days (inclusive of weekends and
12 holidays) of receipt of the Director's findings letter. The Board shall notify the
13 [~~Chief of Police~~ Office of Police Reform] of the request for hearing and hold a
14 hearing on the matter at its next regularly scheduled meeting provided that
15 there is a period of at least [~~ten~~ 14 business] days between the receipt of the
16 request for hearing and the next Board meeting. Any such appeals shall be
17 reviewed in accordance with standards of conduct prescribed [~~by § 9-4-1-8(D)~~
18 below].

19 [(1) The Board shall adopt and follow rules for appeals that implement the
20 requirements of this article and ensure fairness and completeness in its
21 reviews. For purposes of these reviews, the Board members shall, at a
22 minimum, adhere to the following standards of conduct:

23 (a) Remain impartial in deliberations and decisions and abstain from any
24 independent investigation or review of information not presented by the
25 investigation report or within the investigation file;

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

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1 (c) Refrain from prejudgment on matters coming before the Board until
2 such time as all relevant information has been reviewed and considered at a
3 properly noticed meeting, and recuse from any hearing in which he or she has
4 a direct or indirect personal conflict of interest or cannot otherwise accord a
5 fair and impartial review, or in which such member's participation would
6 create the appearance of impropriety or partiality.

7 (B) Upon close of the hearing the Board may modify or change the
8 findings and/or recommendations of the public record letter and may make
9 further recommendations to the [Chief of Police Office of Police Reform]
10 regarding the findings and/or recommendations and any discipline imposed
11 by the [Chief of Police Office of Police Reform] or proposed by the [Chief of
12 Police Office of Police Reform] only upon a showing by the complainant that:
13 1) a policy was misapplied in the evaluation of the complaint; 2) that the
14 findings or recommendations were arbitrary, capricious or constituted an
15 abuse of discretion, or 3) that the findings and recommendations were not
16 consistent with the record evidence. The Board shall document the outcome
17 of the hearing in a written Notice of Decision that shall be provided to the
18 complainant, the individual against whom the complaint was filed, the
19 Director, and the Office of Police Reform.] ~~[The request must be made by the~~
20 ~~complainant.]~~ Within 20 days of receipt of the decision of the Board, the [Chief
21 of Police Office of Police Reform] shall notify the [Board Agency] and the
22 original civilian complainant of his or her final disciplinary decision in this
23 matter in writing, by certified mail.

24 [(C) (B)] Appeals of the Final Disciplinary Decision. If any person who has
25 filed a civilian complaint under §§ 9-4-1-1 through 9-4-1-[13 14] is not satisfied
26 with the final disciplinary decision of the [Chief of Police Office of Police
27 Reform] or any matter relating to the [Chief of Police Office of Police Reform]'s
28 handling of his or her complaint, he or she may request that the Chief
29 Administrative Officer review the complaint, the disciplinary recommendation
30 of the [Board Director,] and the action of the [Chief of Police Office of Police
31 Reform] by requesting such review in writing within 30 days (inclusive of
32 weekends and holidays) of receipt of the [Chief of Police Office of Police
33 Reform]'s letter pursuant to § 9-4-1-[9 10](B). Upon completion of his or her

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1 review, the Chief Administrative Officer shall, within 90 days, take any action
2 necessary, including overriding the decision of the [~~Chief of Police~~ Office of
3 Police Reform] regarding disciplinary action, to complete the disposition of
4 the complaint. The Chief Administrative Officer shall notify in writing, by
5 certified mail, the complainant, the individual against whom the complaint was
6 filed, the [~~Chief of Police~~ Office of Police Reform] and the Director, of the
7 results of his or her review and any action taken.

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

26 § 9-4-1-~~[40 11]~~ REPORTS.

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

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

32 (B) Discussion of issues of interest undertaken by the Board which may
33 include suggested policy and/or procedural changes, a listing of complaints

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1 and allegations by Council District, statistical ethnicity of subject officers,
2 statistical ethnicity of complainants, and updates on prior issues and/or
3 recommendations;

4 (C) The CPOA's findings and the [~~Chief of Police~~ Office of Police Reform]'s
5 issuance of discipline on those findings and the ongoing disciplinary trends of
6 the Police Department;

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

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

12 (F)] Identification of any matters that may necessitate the City Council's
13 consideration of legislative amendments to this Police Oversight Ordinance;

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

17 [(H) ~~Training progress for each Board member, verifying completion of the~~
18 ~~initial and on-going training requirements for each Board member.~~]

19 § 9-4-1-[11 12] SPECIAL MEETINGS.

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

27 § 9-4-1-[12 13] CONFIDENTIALITY.

28 The City Council believes that full participation and cooperation of all parties
29 involved is essential to the success of the new police oversight process, and
30 that APD hereby agrees and understands that its full cooperation is
31 necessary, hereby agrees to mandate that its officers provide honest and
32 truthful responses to all questions by the Director, CPOA staff or the
33 designated independent investigator. If any officer refuses to answer the

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1 questions proposed to him or her by the Director, CPOA staff, or the
2 independent investigator, he or she may be subject to termination or
3 disciplinary action at the discretion of the Chief of Police. Compelled
4 statements given to the Director, CPOA staff or the designated independent
5 investigator, by a police officer will be used only for the Director's
6 investigation and the closed session review of the investigation file by the
7 Board, if any. The actual statement will remain confidential and will not be
8 included in a final report. The Director may summarize conclusions reached
9 from a compelled statement for the investigation report and in the public
10 record letter to the complainant.

11 **§ 9-4-1-~~13~~ 14] MANDATORY COOPERATION AGREEMENT.**

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

28 **SECTION 2. CIVILIAN POLICE OVERSIGHT ADVISORY BOARD.** Pursuant to
29 this Ordinance, the Civilian Police Oversight Agency Board is replaced with
30 the Civilian Police Oversight Advisory Board as referenced in Sections 9-4-1-4
31 and 9-4-1-5 of the Police Oversight Ordinance. In order to effectuate this
32 amendment to numbers and scope of the Board, the Civilian Police Oversight
33 Agency Board in place as of the effective date of this ordinance is abolished

1 and replaced with the Civilian Police Oversight Advisory Board, with all five
2 seats vacant until filled through the appointment procedures established by
3 this Ordinance. To the extent existing members wish to serve of the
4 reconstituted Board, they may reapply.

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

12 SECTION 4. COMPILATION. The amendments set forth in SECTION 1 above
13 shall amend, be incorporated in, and made part of the Revised Ordinances of
14 Albuquerque, New Mexico, 1994.

15 SECTION 5. EFFECTIVE DATE. This ordinance shall take effect five (5) days
16 after publication by title and general summary.

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