



Legislation Text

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**CITY of ALBUQUERQUE**  
**TWENTY SECOND COUNCIL**

COUNCIL BILL NO. R-16-135 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Patrick Davis

RESOLUTION

Establishing Policy For The Albuquerque Police Department's Criminal Investigation Of Officer Involved Shootings And In-Custody Deaths (Davis)

WHEREAS, the Albuquerque Police Department ("APD") presently participates via Memorandum of Understanding (the "MOU") in a Multi-Agency Task Force for the criminal investigation of certain uses of force by APD, including but not limited to officer involved shootings ("OIS"), serious uses of force, and in-custody deaths; and

WHEREAS, in its present form the MOU contemplates that an APD detective takes the lead in these investigations and that one of the other participating agencies then partners with that lead APD detective on the investigation; and

WHEREAS, although this present system can help to benefit the accountability of the investigation and can help limit investigative bias or predisposition, it still leaves the lead investigative agency to investigate itself in some of the most complicated and difficult circumstances; and

WHEREAS, a system that eliminates any APD involvement whatsoever in the investigation APD use of lethal uses of force resulting in death, and in-custody deaths will help to better ensure both the fact and appearance of impartiality in these critical investigations; and

WHEREAS, pursuant to the paragraph 48 of the City's court-approved settlement agreement with the United States Department of Justice (the "Settlement Agreement") "APD shall continue to participate in the Multi-Agency Task Force, pursuant to its MOU, in order to conduct criminal

investigations (of this nature)”; and

WHEREAS, paragraph 85 of the Settlement Agreement authorizes APD and the City to amend its process with the Multi-Agency Task Force or enter new memoranda of understanding for the investigation of OIS, serious uses of force, and in-custody deaths;

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE THAT:

SECTION 1. Policy Development. The Albuquerque Police Department shall adopt a written policy regarding the referral of investigations of, at a minimum, lethal uses of force resulting in death and in-custody deaths with the following minimum parameters:

(1) The policy shall require that each incident of a lethal uses of force by a police department employee (including but not limited to officer involved shootings) and in custody deaths must require an investigation conducted by a law enforcement agency, which:

(a) Does not employ any law enforcement officer involved in the incident;

(b) Does not share evidence management, report management or court liaison services with the Albuquerque Police Department; and

(c) Is not an investigative unit of the Second Judicial District Attorney's Office.

SECTION 2. Agreements. The Mayor is directed to execute or amend any memorandum(s) of understanding between the City and law enforcement agencies to make those agencies available for these investigations. The memorandum(s) of understanding shall, at a minimum, include:

(1) A process to reimburse, from the budget of the Police Department, the investigating agency for reasonable costs associated with the investigation, to include preparing the investigation report, preparing the investigation for presentation to the appropriate judicial agency and oversight agencies; and

(2) Provisions to ensure that the outside agency has and uses their own evidence management system independent of the Albuquerque Police Department; and

(3) Provisions to ensure cooperation with APD Internal Affairs and the Civilian Police Oversight Agency in fulfillment of their respective roles and mandates relating to administrative investigations and reviews.

SECTION 3. Prosecutorial Referrals. The City shall request that an independent special prosecutor be appointed by the Second Judicial District Attorney's Office for the Investigations covered by this resolution, and otherwise refer the prosecution of these investigations to either the

Attorney General or a district attorney not in the second judicial district. Absent appointment of an independent special prosecutor by the second judicial district attorney's office, such investigations shall be referred to it only in the event of a rejection or untimely response by the New Mexico Attorney General's Office and any other DA Office referrals sought;

SECTION 4. Funding. APD shall include a line item in its annual budget specifically dedicated to covering the costs the outside investigatory agencies called for by this resolution, and costs associated with the special prosecutorial process described in Section 3, above (if any).

SECTION 5. Non-interference. Nothing in this resolution shall prohibit the Albuquerque Police Department, Civilian Police Oversight Agency or other city departments from conducting an internal administrative investigation into any incident as appropriate.

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