

1 government of the City of Albuquerque;

2 (C) Provide citizens and police officers a fair and impartial system
3 for the investigations and determinations on citizen police complaints;

4 (D) Gather and analyze data on trends and potential issues
5 concerning police conduct and practices and the related impacts on the
6 community and individuals; and

7 (E) Provide policy guidance to the City Council, the Mayor and the
8 Police Chief.]

9 § 9-4-1-3 LEGISLATIVE FINDINGS.

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

13 (B) In 1996 the City Council initiated a process to independently
14 review the city's mechanisms of police oversight since the system [~~has had~~]
15 not been independently evaluated since 1988. [As a result of that process, the
16 City Council abolished the then existing Public Safety Advisory Board, and in
17 lieu thereof established the current Police Oversight Commission (POC).]

18 [~~(C)—The Council obtained the services of two nationally known~~
19 ~~experts in the field of police oversight, Professors Eileen Luna and Sam~~
20 ~~Walker, who concluded the Albuquerque's [current] system was ineffective,~~
21 ~~risk management settlements involving police were excessive, and the Public~~
22 ~~Safety Advisory Board was dysfunctional and should be restructured.~~

23 ~~——(D)—The Walker/Luna Study also found that the role of the~~
24 ~~Independent Counsel has been defined too narrowly and that more use should~~
25 ~~be made of the authority and expertise of this position.~~

26 ~~——(E)—To further the evaluation process the City Council established~~
27 ~~an Ad Hoc Public Safety Committee who in turn set up a citizen's Task Force~~
28 ~~on Police Oversight. Together these two groups evaluated the city's current~~
29 ~~system, studied oversight models from other cities, held two Town Hall~~
30 ~~Meetings to receive input from the public, and presented their final~~
31 ~~recommendations.~~

32 ~~——(F)—As a result of the advice of the Council's expert consultants,~~
33 ~~recommendations from the Police Oversight Task Force, and testimony and~~

1 ~~comments received from the public, the Council believes it is now appropriate~~
2 ~~and necessary for the citizens of Albuquerque and its Police Department to~~
3 ~~abolished the then existing Public Safety Advisory Board, and in lieu thereof~~
4 ~~establish a Police Oversight Commission (POC).~~

5 ~~—— (G) — The Council further believes that it is beneficial to eliminate~~
6 ~~the Independent Counsel as it is presently structured, and in lieu thereof~~
7 ~~establish an Independent Review Office to function under the auspices of the~~
8 ~~Police Oversight Commission.]~~

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

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

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

24 (F) The Council hereby abolishes the POC effective December 31,
25 2014, and simultaneously replaces it with a Civilian Police Oversight Agency
26 as prescribed by this Article.]

27 § 9-4-1-4 [ESTABLISHMENT OF A CIVILIAN] POLICE OVERSIGHT
28 [COMMISSION AGENCY].

29 There is hereby created a [Civilian] Police Oversight [Commission
30 Agency (the "CPOA") as an independent agency of City Government, not part
31 of either the City Administration or City Council] ([POC]) to provide [policy
32 guidance for, and] oversight of the Albuquerque Police Department and [to]
33 oversee all citizen complaints [relating to police encounters. The CPOA shall

1 consist of a Police Oversight Board (the “POB”) and an Administrative Office
2 directed by a Review Officer that oversees investigations, provides staffing to
3 the Police Oversight Board, and manages the day to day operations of the
4 CPOA, as follows:

5 ~~[(A) The POC shall be composed of nine members who broadly represent~~
6 ~~the diversity of this community, and who reside within the City of~~
7 ~~Albuquerque. There shall be one member of the Police Oversight Commission~~
8 ~~representing each City Council District.~~

9 ~~_____ (B) The following are the minimum qualifications for members of~~
10 ~~the Police Oversight Commission:~~

11 ~~_____ (1) Have not been employed by law enforcement for one~~
12 ~~year prior to appointment; and~~

13 ~~_____ (2) Problem solving and conflict resolution skills; and~~

14 ~~_____ (3) Attend a yearly four-hour civil rights training session to~~
15 ~~be conducted by a civil rights attorney or advocacy group; and~~

16 ~~_____ (4) A willingness to commit the necessary time each month~~
17 ~~for POC hearings and a commitment to prepare and read all materials~~
18 ~~distributed prior to the monthly POC meetings; and~~

19 ~~_____ (5) Participate in a minimum of two ride-a-longs every year~~
20 ~~with APD officers; and~~

21 ~~_____ (6) Attend a yearly Firearms Training Simulator (FATS)~~
22 ~~training at the APD Police Academy.~~

23 ~~_____ (C) When a vacancy on the POC occurs, the Councilor~~
24 ~~representing the District in which the vacating member of the POC resides~~
25 ~~shall nominate two members to the POC who reside in his or her respective~~
26 ~~Council District. The Mayor shall then appoint one of these recommended~~
27 ~~members to the POC with the advice and consent of the Council; provided,~~
28 ~~however, if a member is eligible for reappointment to the POC and the~~
29 ~~Councilor in whose District that member resides desires to reappoint the~~
30 ~~member, the Councilor shall so notify the Council and the member shall be~~
31 ~~reappointed subject to the advice and consent of the Council. If a member is~~
32 ~~not being reappointed, the Mayor shall deliver to the Council the Mayor's~~
33 ~~recommendation from the two names submitted within 30 days of delivery of~~

1 ~~the two names to the Mayor. If the Mayor fails to timely make a~~
2 ~~recommendation from the two names submitted, the Councilor who submitted~~
3 ~~the names may appoint one of the two recommended members subject to the~~
4 ~~advice and consent of the Council.~~

5 ~~———(D)—— The Mayor may notify a Councilor in writing that his or her~~
6 ~~District member's term has expired or the position is otherwise vacant and the~~
7 ~~Councilor shall have 60 days to submit two recommended appointments to fill~~
8 ~~that position. If the Councilor fails to submit two names within 60 days of~~
9 ~~notification, the Mayor shall have the right to make the appointment subject to~~
10 ~~the advice and consent of the City Council.~~

11 ~~———(E)—— The terms of the members of the POC shall be for three years~~
12 ~~and shall be staggered so that no more than five of the members are eligible~~
13 ~~for reappointment or replacement each year.~~

14 ~~———(F)—— The appointment of any member of the POC who has been~~
15 ~~absent and not excused from three consecutive regular or special meetings~~
16 ~~shall automatically expire effective on the date the fact of such absence is~~
17 ~~reported by the Commission to the City Clerk. The City Clerk shall notify any~~
18 ~~member whose appointment has automatically terminated and report to the~~
19 ~~City Council that a vacancy exists on said Commission and that an~~
20 ~~appointment should be made for the length of the unexpired term.~~

21 ~~———(G)—— That the POC shall elect one of its members as the~~
22 ~~Chairperson and one as Vice-Chairperson, who shall each hold office for one~~
23 ~~year and until their successors are elected. No officer shall be eligible to~~
24 ~~succeed himself or herself in the same office. Officers shall be elected in the~~
25 ~~month of March of each calendar year.~~

26 ~~———(H)—— The POC may appoint such subcommittees as are deemed~~
27 ~~necessary or desirable for the purposes of §§ 9-4-1-1 through 9-4-1-14,~~
28 ~~provided that, membership on such subcommittees shall be limited to the~~
29 ~~Commission members.~~

30 [(A) Independence. The CPOA is independent of the Mayor's
31 Office, the City Council, and the Albuquerque Police Department with respect
32 to the performance of its oversight role and duties under this Ordinance.

33 (1) Facility Location.] T[hat t]he [POCCPOA and its

1 ~~investigative arm, the IRO,~~] shall be housed in a facility that is separate from
2 any police presence and is located outside of the Albuquerque/Bernalillo
3 Government Center, the Police Department and/or all of the police
4 substations.

5 (2) Budget. The CPOA shall have a dedicated and
6 independent source of funding equal to ½% of APD’s annual operation budget,
7 administer its own budget and supervise its own staff in compliance with the
8 City’s Merit Ordinance and contractual services policies and procedures. The
9 CPOA shall recommend and propose its budget to the Mayor and City Council
10 during the city's budget process, for provision of such staff and expenses
11 necessary to carry out the powers and duties under §§ 9-4-1-1 through 9-4-1-
12 14, including the funding for staff, and all necessary operating expenses.

13 (3) Professional Legal Services. The CPOA may retain or
14 employ independent legal counsel on a contractual basis to advise and
15 represent the CPOA. If so retained, the CPOA’s legal counsel shall represent
16 the CPOA in the courts, and shall advise the CPOA as to any legal matters
17 relating to the this Ordinance and the CPOA’s duty’s, responsibilities, and
18 procedures.

19 (4). Applicability of City Policies and Ordinances. The
20 CPOA shall comply with all City Ordinances and Policies dealing with
21 administrative functions including but not limited to those dealing with
22 personnel, the merit system, and procurements.]

23 ~~[(J) (B) Staff. That the City Council and the Mayor's Office shall~~
24 ~~jointly provide staff assistance at all regularly scheduled meetings and at~~
25 ~~special meetings held pursuant to signed petitions. The CPOA shall employ~~
26 ~~such staff as necessary to carry out its functions as prescribed by this Article,~~
27 ~~including but not limited to All other staff support shall be provided by] the~~
28 ~~[IRO Review Officer (the “RO”)] and[/or the Independent Review Office other]~~
29 ~~staff [as may be necessary, subject to budget sufficiency and City personnel~~
30 ~~policies and procedures].~~

31 ~~[§ 9-4-1-5 POWERS AND DUTIES OF THE COMMISSION.~~

32 (C) Responsibilities.] The [Civilian] Police Oversight [Commission
33 Agency is responsible for civilian police oversight and has shall have] the

1 following powers and duties:

2 [(A) (1) Community Outreach. The CPOA shall develop,
3 implement, and from time to time amend as necessary, a program of
4 community outreach aimed at soliciting public input from the broadest
5 segment of the community in terms of geography, culture, ethnicity, and
6 socio-economics. The CPOA shall employ a or designate full time staff
7 member within the Administrative Office dedicated to community outreach
8 efforts. The CPOA shall report its community outreach efforts to the City
9 Council on an annual basis.

10 [(B) (2) Promotion of Accountability.—To The
11 CPOA shall] promote a spirit of accountability and communication between
12 the citizens and the Albuquerque Police Department while improving
13 community relations and enhancing public confidence.

14 [(C) (3) Investigations. The CPOA shall To]
15 oversee the full investigation [of all officer involved shootings, and the
16 investigation] and/or mediation of all citizen complaints; [and] audit and
17 monitor all [use of force] investigations [and/or police shootings] under
18 investigation by APD's Internal Affairs; however, the [POCCPOA] will not
19 [itself] investigate any complaints other than those filed by citizens. All
20 complaints filed by police officers will be investigated by Internal Affairs.
21 [However, Internal Affairs shall provide a weekly update to the RO on open
22 internal investigations.

23 (a) Mediation First. Whenever possible, and
24 as further described in Section 9-4-1-6(C)(3) of this Ordinance, mediation
25 should be the first option for resolution of Citizen Police Complaints.

26 (b) POB Investigation Audits; Access to Files.
27 The POB shall periodically audit individual Citizen Police Complaint
28 Investigations completed by the Administrative Office. For purposes of its
29 audit function, the POB shall have full access to investigation files and may
30 subpoena such documents and witnesses as relevant to its audit function.

31 (c) Disciplinary Recommendations. The
32 CPOA may, in its discretion, recommend officer disciplinary action from the
33 Chart of Sanctions for investigations that result in sustained Citizen Police

1 Complaints or findings of improper use of force. Imposition of the
2 recommended discipline is at the discretion of the Chief of Police, but if the
3 Chief of Police does not follow the disciplinary recommendation of the CPOA,
4 the Chief of Police shall respond to the CPOA in writing, within thirty (30)
5 days, with the reason as to why the recommended discipline was not imposed.

6 (4) Reports to Mayor & Council. The CPOA shall Submit
7 a quarterly report to the Mayor and City Council according to § 9-4-1-10 herein.

8 (6) CPOA Policy Recommendations. The CPOA shall
9 engage in a long-term planning process through which it identifies major
10 problems or trends, evaluates the efficacy of existing law enforcement
11 practices in dealing with the same, and establishes a program of resulting
12 policy suggestions and studies each year. The POB shall review and analyze
13 the policy suggestions, studies, and trend data collected by the RO and staff,
14 and vote upon policy recommendations regarding APD policy, training,
15 programs and procedures to be submitted to APD and to the City Council.

16 (a) The Police Chief shall respond in writing within
17 forty-five (45) days to any such policy recommendations by the CPOA, and
18 indicate whether they will be followed through standard operating procedures
19 or should be adopted as policy by the City Council, or explain any reasons
20 why such policy recommendations will not be followed or should not be
21 adopted.

22 ~~[(C) To gain the cooperation of APD and solicit public input by~~
23 ~~holding regularly scheduled meetings.]~~

24 [§ 9-4-1-5 THE CPOA POLICE OVERSIGHT BOARD

25 (A) Composition. The POB shall be composed of nine members,
26 one from each City Council District, who broadly represent the diversity and
27 demographics of this community, who are representative of the stakeholders
28 of the police oversight process, and who reside within the City of
29 Albuquerque.

30 (B) Qualifications. The following are the minimum qualifications
31 for members of the POB:

32 (1) Have not been employed by law enforcement for one
33 year prior to appointment; and

- 1 (2) Successfully pass a background check]; and
2 (3) Personal history lacking any pattern of unsubstantiated
3 complaints against APD; and
4 (4) A demonstrated ability to engage in mature, impartial
5 decision making; and
6 (5) Residency within the City of Albuquerque.

7 (C) Appointment of Members. Each City Councilor representing
8 the District in which a vacancy exists shall appoint one member to the POB
9 with the advice and consent of the Council; provided, however, if a member is
10 eligible for reappointment and the Councilor in whose District that member
11 resides desires to reappoint the member, the Councilor shall so notify the
12 Council and the member shall be reappointed subject to the advice and
13 consent of the Council. No member of the Police Oversight Commission
14 existing as of the date of the adoption of this amended ordinance shall be
15 appointed to the first board of the POB.

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

19 (E) Removal of Members. POB members may be removed by a
20 two-thirds majority vote of the City Council. The appointment of any
21 member who has been absent and not excused from three consecutive regular
22 or special meetings shall automatically expire effective on the date the fact of
23 such absence is reported by the POB to the City Clerk. The City Clerk shall
24 notify any member whose appointment has automatically terminated and
25 report to the City Council that a vacancy exists and that an appointment
26 should be made for the length of the unexpired term.

27 (F) Orientation and Training. Upon appointment, POB members
28 shall complete an orientation and training program consisting of the following:

29 (1) Required Orientation. Prior to participation in any
30 meeting of the POB, a newly appointed member must first:

- 31 (a) Be trained by the CPOA staff or CPOA legal
32 counsel on CPOA and APD rules, policies, and procedures;
33 and

1 (b) Attend at least one POB meeting as an observer
2 (except initial appointees).

3 (2) Required Training. Each POB member shall complete a
4 training program within the first six months of the member's appointment that
5 consists, at a minimum, of the following:

6 (a) Completion of the APD Civilian Police Academy;

7 (b) Civil Rights training;

8 (c) At least two (2) APD ride-alongs;

9 (d) Annual firearms simulation training;

10 (e) Internal Affairs training;

11 (f) Use of Force training, including a review and
12 familiarization with the APD Use of Force Policy;

13 (g) Equity and Cultural Sensitivity training; and

14 (f) Periodic additional training on items (b) through
15 (f) above, or other periodic training as determined by the Mayor, City Council
16 or the CPOA.

17 (3) Recommended Training. POB members are encouraged
18 to attend conferences and workshops relating to police oversight, such as the
19 annual NACOLE conference at City expense depending on budget availability.]

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

26 (H) Subcommittees. The POB may appoint such subcommittees
27 as are deemed necessary or desirable for the purposes of §§ 9-4-1-1 through
28 9-4-1-14, provided that, membership on such subcommittees shall be limited
29 to POB members.

30 ~~(D) To select, hire, direct and review all work of the IRO with~~
31 ~~respect to quality, thoroughness, and impartiality of investigations.~~

32 ~~(E) Submit a quarterly report to the Mayor and City Council~~
33 ~~according to § 9-4-1-10 herein.~~

1 ~~—— (F) — To submit all findings to the Chief of Police. The Chief will~~
2 ~~have final disciplinary authority.~~

3 ~~—— (G) — To engage in a long-term planning process through which it~~
4 ~~identifies major problems and establishes a program of policy suggestions~~
5 ~~and studies each year.]~~

6 **(H)(I) Meetings.** The POB shall ~~To~~ conduct regularly scheduled
7 public meetings with a prepared agenda that is distributed in advance to the
8 Mayor, City Council, Police Chief, and City Attorney, and that complies with
9 the New Mexico Open Meetings Law. Each [~~POC~~**POB**] meeting will begin with
10 public comments and only the regularly scheduled monthly meetings and
11 special meetings held pursuant to submission of petitions will be televised
12 live on the appropriate government access channel. All other meetings of the
13 [~~POC~~**POB**] will comply with the Open Meetings Law and shall be videotaped
14 and aired on the appropriate government access channel; however, there is no
15 requirement for providing live television coverage.

16 **[1. Public Comment. The POB shall allow general public**
17 **comment at each of its meetings, and the POB shall also allow comment on**
18 **each of its agenda items.]**

19 ~~[(I) — To recommend to the Mayor and City Council during the city's~~
20 ~~budget process, their proposed budget for provision of such staff as is]~~
21 ~~necessary to carry out the powers and duties under §§ 9-4-1-1 through 9-4-1-~~
22 ~~14, including the funding for the Independent Review Office, staff, and all~~
23 ~~necessary operating expenses. The Mayor shall propose the annual budget to~~
24 ~~the City Council in the annual budget message.~~

25 ~~—— (J) — To recommend three candidates to the Mayor for~~
26 ~~consideration as the Independent Review Officer (IRO), and oversee the~~
27 ~~continuing performance of this individual once selected by the City Council.]~~

28 **§ 9-4-1-6 [INDEPENDENT REVIEW CPOA ADMINISTRATIVE] OFFICE.**

29 **(A)** ~~[The Independent Review Office is hereby established and~~
30 ~~shall be~~ **The staff and administration of the CPOA shall be** directed by [an
31 Independent **the CPOA**] Review Officer (~~[IRO~~ **RO**]).

32 **(B)** The [~~IROR~~ **RO**] shall ~~[be given autonomy and shall oversee~~
33 **CPOA citizen complaint and officer involved shooting investigations, provide**

1 staffing to the Police Oversight Board, ensure that the duties and
2 responsibilities of the CPOA are executed in an efficient manner, and manage
3 the day to day operations of the CPOA. ~~perform all duties under the direction~~
4 ~~of the POC. There will be no attorney-client privilege between the IRO and the~~
5 ~~city.]~~

6 (C) The ~~[Independent Review Administrative]~~ Office will receive
7 ~~[and process]~~ all citizen complaints and claims directed against the
8 Albuquerque Police Department and any of its officers. The ~~[IRO]~~ will
9 review such citizen complaints and assign them for ~~[investigation to either the~~
10 ~~Albuquerque Police Department for an internal administrative]~~ investigation
11 ~~[by CPOA staff]~~ or to an ~~[outside]~~ independent investigator. The ~~[IRO]~~ will
12 oversee, monitor and review all such investigations and make findings for
13 each. All findings relating to citizen complaints and police shootings will be
14 forwarded to the ~~[POCPOB]~~. The ~~[IRO]~~ may review completed IA cases and
15 discuss those cases with the Chief or ~~[his the Chief's]~~ designee. In any
16 instance, the Chief of Police will have the sole authority for discipline. For all
17 investigations, the ~~[IRO]~~ will make recommendations and give advice
18 regarding ~~[Police]~~ Department~~[a]~~ policies and procedures to the ~~[POCPOB]~~,
19 City Council, and the Mayor as the ~~[IRO]~~ deems advisable~~], provided as~~
20 ~~follows:]~~

21 (1) ~~[That]~~ ~~[I]~~ investigation of all citizen complaints filed with
22 the ~~[Independent Review Office CPOA]~~ shall begin immediately after
23 complaints are filed and proceed as expeditiously as possible; and

24 (2) ~~[That a A]~~ll citizen complaints filed with other offices
25 within the city authorized to accept citizen complaints, including the Police
26 Department, shall be immediately referred to the ~~[IRO]~~ for investigation;
27 and

28 (3) Mediation should be the first option for resolution of
29 Citizen Police Complaints. Mediators should be independent of the CPOA,
30 APD, and the City, and should not be former officers or employees of APD.
31 ~~That a A]~~t the discretion of the ~~[IRO]~~ an impartial system of mediation ~~[may~~
32 should] be considered appropriate for certain complaints. If all parties
33 involved reach an agreement, the mediation is considered successful and no

1 investigation will occur; and

2 (4) ~~[To~~ The IRORO shall] monitor all claims of excessive
3 force and police shootings. No APD related settlements in excess of \$25,000
4 shall be made for claims without the knowledge of the ~~[IRORO]~~. The ~~[IRORO]~~
5 shall be an ex-officio member of the Claims Review Board; and

6 (5) ~~[That a A]~~ll investigations shall be thorough, objective,
7 fair, impartial, and free from political influence; and

8 (6) ~~[That~~ The IRORO shall maintain and compile] all
9 information necessary to satisfy the ~~[POC's CPOA's]~~ quarterly reporting
10 requirements in § 9-4-1-10~~[be maintained and compiled; and~~

11 ~~—————(7) The process for finalizing findings on police shooting~~
12 ~~cases shall be the same as the process for finalizing findings on citizen police~~
13 ~~complaints.]~~

14 (D) The ~~[IRORO]~~ shall have access to any Police Department
15 information or documents that are relevant to a citizen's complaint, or to an
16 issue which is ongoing at ~~[the Independent Review Office or]~~ the ~~[POC CPOA]~~;
17 and

18 (E) The ~~[IRORO]~~ shall make recommendations to the ~~[POC POB]~~
19 and APD on specific training, changes in policy or duty manuals. APD will
20 respond, in writing, to all recommendations from the ~~[IRORO]~~ or ~~[POC POB]~~
21 within 60 days. ~~[F The RO shall f]ollow up and monitor all recommendations to~~
22 ~~verify their adoption and implementation; and~~

23 (F) ~~The [Independent Review Office shall provide~~ Administrative
24 Office shall] staff~~[, assistance for the POC and]~~ coordinate and provide
25 technical support for all scheduled ~~[Police Oversight Commission POB]~~
26 meetings, publicize all findings and reports, recommendations, and/or
27 suggested policy changes; and

28 (G) ~~[The Independent Review Office RO shall P p]lay an active~~
29 public role in the community, and whenever possible, provide appropriate
30 outreach to the community~~[, P, p]ublicize the citizen complaint process, and~~
31 identify locations within the community that are suitable for citizens to file
32 complaints in a non-police environment~~[,; and~~

33 (H) The RO will be provided the necessary professional and/or

1 clerical employees for the effective staffing of the Administrative Office, and
2 shall prescribe the duties of these staff members. Such professional and
3 clerical employees will be classified city employees.

4 (l) The RO will report directly to the POB and act as Lead
5 Investigator and Director of the Administrative Office; will supervise all
6 investigations of citizen complaints against police officers, will audit all IA
7 investigations of complaints, will recommend and participate in mediation of
8 certain complaints, and will supervise all CPOA staff.]

9 ~~—— (H) — Neither the City Council nor any of its members, nor the Mayor~~
10 ~~shall in any manner dictate the appointment or removal of any such employee~~
11 ~~of the Independent Review Office.]~~

12 § 9-4-1-7 ~~[INDEPENDENT]~~ REVIEW OFFICER [QUALIFICATIONS AND
13 SELECTION].

14 (A) Qualifications for the position of ~~[Independent]~~ Review Officer
15 shall ~~[be determined by the Police Oversight Commission. The qualifications]~~
16 minimally include the requirement of a law degree and experience in criminal
17 investigations.

18 (B) The position of ~~[IRORO]~~ will be a full-time ~~[contractual exempt]~~
19 city employee to be selected as follows:

20 [(1) The POB, through its staff, shall accept applications
21 from candidates. The POB shall review the applications and interview
22 candidates, and submit to the City Council a ranked list of the three
23 candidates that it finds to be the best qualified to be the RO and the City
24 Council shall appoint the RO from the three by adoption of a resolution. The
25 POB's recommendation to Council shall be based on the candidates' integrity,
26 capability for strong management and abilities in investigations, law,
27 management analysis, public administration, criminal justice administration or
28 other closely related fields.

29 (2) In lieu of recommending three candidates to the
30 Council, the POB may recommend to the Council the reconfirmation of the
31 incumbent RO. Should the Council decline to reconfirm the incumbent RO,
32 the Council President will notify the POB that it needs to provide the Council
33 with three alternate candidates pursuant to the provisions of Subsection

1 (B)(1). Should the RO not be reconfirmed, the current RO may continue to
2 serve in the same capacity until a new RO is selected and approved by the
3 City Council. If for some unforeseen reason there is a period of time during
4 which there is no RO, the City Council may appoint a temporary RO of its
5 choosing by a majority vote. A temporary RO shall serve in that capacity only
6 for a period not to exceed six months.

7 (3) The term of the RO shall be for three (3) years. Once
8 confirmed, the RO may be removed only upon an affirmative vote of two-thirds
9 (2/3) of the members of the POB or upon expiration of the RO's term. Within
10 five days of removal of the RO, the POB shall report the reasons for that
11 removal to the Council.

12 ~~(1) A candidate search will be undertaken by the POC, who will screen,~~
13 ~~interview, and select three candidates to be considered by the Mayor; and~~

14 ~~(2) The Mayor will select one of the three candidates and~~
15 ~~forward his recommendations to the City Council; and~~

16 ~~(3) The City Council may accept or reject the Mayor's~~
17 ~~nominee.~~

18 ~~(4) In the event the City Council rejects the nominee, the~~
19 ~~Mayor shall submit his second recommendation from the names submitted by~~
20 ~~the POC, the City Council may accept or reject the Mayor's nominee.~~

21 ~~(5) In the event that the City Council rejects the second~~
22 ~~nominee, the process shall begin with a second candidate search by the POC.~~

23 ~~(C) The IRO will be provided the necessary professional and/or~~
24 ~~clerical employees for the Office, and shall prescribe the duties of these staff~~
25 ~~members after consultation with the members of the POC. Such professional~~
26 ~~and clerical employees will be classified city employees.~~

27 ~~(D) The IRO will report directly to the POC and act as Lead~~
28 ~~Investigator and Manager of the Office; will supervise all investigations of~~
29 ~~citizen complaints against police officers, will audit all investigations of~~
30 ~~complaints and/or police shootings, will recommend and participate in~~
31 ~~mediation of certain complaints, and will supervise all Independent Review~~
32 ~~Office staff.]~~

33 ~~[(E) The term of the IRO shall be for two years, commencing~~

1 ~~immediately upon approval by the City Council. The Mayor, with the approval~~
2 ~~of the City Council, shall have the option to renew or extend the contract with~~
3 ~~the IRO for additional two-year periods. Negotiations to renew or extend the~~
4 ~~contract shall be completed three months prior to the contract expiring.~~
5 ~~Should the contract not be renewed or extended, the IRO may continue to~~
6 ~~serve in the same capacity until a new IRO is selected and approved by the~~
7 ~~City Council. If the IRO or the Mayor chooses not to renew or extend the~~
8 ~~contract, the POC shall be immediately notified. The POC will then~~
9 ~~immediately begin a candidate search, as described in § 9-4-1-7(B)(1). If for~~
10 ~~some unforeseen reason there is a period of time during which there is no~~
11 ~~IRO, the Mayor may appoint a temporary IRO, with the consent and approval of~~
12 ~~the City Council. A temporary IRO shall only serve in that capacity for a~~
13 ~~period not to exceed six months.]~~

14 § 9-4-1-8 CITIZEN COMPLAINT PROCEDURES.

15 (A) Any person claiming to be aggrieved by actions of the Police
16 may file a written complaint against the department or any of its officers [no
17 later than 120 days after the date of the action complained of]. The [POGPOB]
18 shall submit rules and regulations governing citizen complaint procedures to
19 the [Mayor and] City Council for approval, including rules and regulations
20 relative to time limits, notice and other measures to insure impartial review of
21 citizens' complaints against members of the police department. [Anonymous
22 complaints may accepted but must contain sufficient detail such as time,
23 location, date and as much officer information as possible such as badge
24 number, police unit number, or other descriptive facts, including any footage
25 or recordings that may have captured the incident. If the RO determines that a
26 citizen complaint is determined to not merit further investigation, the RO shall
27 notify the complainant by certified mail within fifteen days of the
28 determination.]

29 (B) [In cooperation with the IRO/RO, T-t]he Mayor shall designate
30 civilian city staff to receive written citizen complaints at various locations
31 throughout the city. The Police Department may also receive written
32 complaints. [Such complaints shall be filed with the civilian city staff no later
33 than 90 days after the action complained of.] The party who receives the

1 complaint shall [immediately] transmit all citizen complaints for further
2 investigation to the [IRO]. ~~[If a citizen complaint is determined to not merit~~
3 ~~further investigation, the complainant shall be notified of that determination by~~
4 ~~certified mail.]~~

5 (C) After the investigation is completed, the [IRO and the Chief,
6 ~~or his designee,]~~ shall [consider the investigation and analyze] all [other]
7 relevant and material [circumstances, facts and] evidence [offered by the
8 ~~person investigated~~ gathered under the investigation and formulate findings].
9 The [IRO may confer with the and] Chief [may confer and to] discuss the
10 investigation and findings[, but the findings of the RO are final unless
11 appealed]. The [IRO] shall ~~[then submit~~ prepare and submit] his [or her]
12 findings and [a] public record letter [to the citizen complainant] with a copy to
13 the [Chief and the POC POB for information purposes. The POB should review
14 the public record letters and use them to identify any trends and inform its
15 policy making process. After the expiration of the appeal period, the POB may
16 audit any investigation that resulted in an un-appealed public record letter. for
17 ~~review and approval. The public record letter to the citizen will only be sent~~
18 ~~after approval by the POC.~~

19 ~~———— (D) ——— If the Chief, or his designee, and the IRO disagree on the IRO's~~
20 ~~findings, the POC will receive the complaint to review at the next regularly~~
21 ~~scheduled meeting. The POC will treat the complaint as a Non-Concurrence~~
22 ~~Issue and after conducting a hearing can keep, modify, or change the original~~
23 ~~findings and/or recommendations of the IRO. If the POC/IRO and Chief do not~~
24 ~~agree on the findings of any citizen complaint, the Chief Administrative Officer~~
25 ~~will review the investigation and render a final decision, acting with the same~~
26 ~~authority and power as described in § 9-4-1-9(B).~~

27 ~~———— (E) ——— When the Chief, or his designee, and the IRO agree on the~~
28 ~~findings of the POC, these findings will be considered final and cannot be~~
29 ~~changed by the Chief, or his designee, or the IRO at any time without first~~
30 ~~notifying the POC, the IRO, the complainant, and the individual(s) against~~
31 ~~whom the complaint was filed, by certified mail. Upon such notification the~~
32 ~~POC will place the matter on its agenda for a regularly scheduled meeting and~~
33 ~~decide whether the findings should be changed because (1) of newly~~

1 ~~discovered evidence which by due diligence could not have been known at the~~
2 ~~time of the original finding, or (2) the original finding was based on fraud,~~
3 ~~misrepresentation, or other misconduct.~~

4 ~~—— (F) — The findings of the POC/IRO shall be placed with the Chief's~~
5 ~~findings on the Internal Affairs Unit Disciplinary Status Sheet. The form will be~~
6 ~~filed in the CPC complaint file and the officer's retention file.~~

7 ~~—— (G) — The Chief shall take whatever action is necessary, including~~
8 ~~disciplinary action, to complete the disposition of the complaint. Written~~
9 ~~notice, by certified mail, of such disposition shall be given to the complainant~~
10 ~~and to the individual against whom the complaint was filed.]~~

11 § 9-4-1-9 APPEALS.

12 (A) ~~[A summary and findings of the investigation conducted~~
13 ~~pursuant to the direction of the IRO shall be forwarded to the complainant and~~
14 ~~to the POC. A copy of the IRO's public record letter shall also be forwarded to~~
15 ~~the complainant and to the POC]. Any person who has filed a citizen~~
16 ~~complaint and who is dissatisfied with the findings of the [IRO] may appeal~~
17 ~~that decision to the [POCPOB] within ten business days of receipt of the~~
18 ~~public record letter. The POB shall hold a hearing on the appeal and provide~~
19 ~~the complainant with a reasonable opportunity to be heard.] The [POCPOB]~~
20 ~~may ~~[upon appeal]~~ modify or change the findings and/or recommendations of~~
21 ~~the [IRO] and may make further recommendations to the Chief regarding~~
22 ~~the findings and/or recommendations and any discipline imposed by the Chief~~
23 ~~or proposed by the Chief. Within 20 days of receipt of the [appellate] decision~~
24 ~~of the [POCPOB], the Chief shall notify the [POCPOB] and the original citizen~~
25 ~~complainant of his or her final disciplinary decision in this matter in writing,~~
26 ~~by certified mail.~~

27 (B) If any person who has filed a citizen complaint under §§ 9-4-1-
28 1 through 9-4-1-14 is not satisfied with the final decision of the Chief of Police
29 on any matter relating to his complaint, he may request that the Chief
30 Administrative Officer review the complaint, the findings of the [IRO] and
31 [POCPOB] and the action of the Chief of Police by requesting such review in
32 writing within ten business days of receipt of the Chief's letter pursuant to § 9-
33 4-1-9(A). Upon completion of his review, the Chief Administrative Officer shall

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

7 § 9-4-1-10 REPORTS.

8 The [POCCPOA] shall be responsible for regularly informing the
9 Mayor, the City Council, and the public by submitting quarterly reports that
10 contain the following types of information:

11 (A) Data relating to the number, kind and status of all complaints
12 received including those complaints send to mediation;

13 (B) Discussion of issues of interest undertaken by the [POCPOB]
14 which may include suggested policy and/or procedural changes, a listing of
15 complaints and allegations by Council District, statistical ethnicity of subject
16 officers, statistical ethnicity of complainants, and updates on prior issues
17 and/or recommendations;

18 (C) The [POCCPOA]'s findings and the Police Chief's issuance of
19 discipline on those findings and the ongoing disciplinary trends of the Police
20 Department;

21 (D) Information on all public outreach initiatives undertaken by
22 ~~[either]~~ the [POCPOB] or the [IRORO] such as speaking engagements, public
23 safety announcements, and/or public information brochures on the oversight
24 process.

25 (E) The status of the long-term planning process identifying major
26 problems, policy suggestions, and studies as required by Section 9-4-1-5 of
27 this ordinance.

28 § 9-4-1-11 EVALUATION.

29 Contingent upon funding, in the first six months of [2005 2016] and
30 at least every four years thereafter, from adoption of §§ 9-4-1-1 through 9-4-1-
31 14, the City Council shall issue a Request for Proposal for an independent
32 consultant to undertake a complete evaluation and analysis of the entire
33 Police Oversight Process, and recommend any necessary changes or

1 amendments that would appropriately improve the process.

2 § 9-4-1-12 SPECIAL MEETINGS.

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

11 § 9-4-1-13 CONFIDENTIALITY.

12 The [POB] hearing process shall be open to the public to the extent
13 legally possible so that it does not conflict with state or federal law. However,
14 upon the opinion of the City Attorney and [~~IRORO~~], some of the details of the
15 investigations of the [~~IRORO~~], or the designated independent investigator,
16 shall become privileged and confidential. The details of investigations should
17 not be open to the public subject to the opinion of the City Attorney and the
18 [~~IRORO~~]. Compelled statements given to the [~~IRORO~~], or the designated
19 independent investigator, will not be made public. The [~~IRORO~~] may
20 summarize conclusions reached from a compelled statement for the report to
21 the [~~POGPOB~~] and the Chief, and in the public record letter sent to the
22 complainant. Nothing in §§ 9-4-1-1 through 9-4-1-14 shall affect the ability of
23 APD to use a compelled statement in a disciplinary proceeding.

24 § 9-4-1-14 MANDATORY COOPERATION AGREEMENT.

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

1 given to the [IRORO, CPOA staff] or the designated independent investigator,
2 by a police officer will be used only for the [IRORO]'s investigation. The actual
3 statement will remain confidential and will not be included in a final report or
4 be forwarded to the [POCPOB]. The [IRORO] may summarize conclusions
5 reached from a compelled statement for the report to the [POCPOB] and the
6 Chief, and in the public record letter to the complainant.

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

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

17 SECTION 4. EFFECTIVE DATE. This ordinance shall be published in
18 advance in order to take effect on January 1, 2015.