

CITY of ALBUQUERQUE

TWENTY-FIRST COUNCIL

COUNCIL BILL NO. O-14-13 ENACTMENT NO. _____

SPONSORED BY: Rey Garduño & Brad Winter

1 ORDINANCE

2 AMENDING CHAPTER 9, ARTICLE 4, PART 1 ROA 1994, THE POLICE
3 OVERSIGHT ORDINANCE, TO ABOLISH THE POLICE OVERSIGHT
4 COMMISSION AND ESTABLISH THE CIVILIAN POLICE OVERSIGHT AGENCY
5 WITH NEW OR AMENDED DUTIES, QUALIFICATIONS AND
6 RESPONSIBILITIES, AND ADOPTING RELATED AMENDMENTS DEALING
7 WITH THE CIVILIAN POLICE OVERSIGHT AGENCY AND THE INTERNAL
8 REVIEW OFFICE

9 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
10 ALBUQUERQUE:

11 SECTION 1. SECTION 9-4-1 IS HEREBY AMENDED AS FOLLOWS:

12 "PART 1: CIVILIAN POLICE OVERSIGHT COMMISSION AGENCY

13 § 9-4-1-1 SHORT TITLE.

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

16 § 9-4-1-2 PURPOSE.

17 The purpose of §§ 9-4-1-1 through 9-4-1-14 is to provide a means for
18 prompt, impartial, and fair investigation of all citizen complaints brought by
19 individuals against the Albuquerque Police Department, and to provide for
20 community participation in setting and reviewing police department policies,
21 practices and procedures.

22 § 9-4-1-3 LEGISLATIVE FINDINGS.

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

26 (B) In 1996 the City Council initiated a process to independently

1 review the city's mechanisms of police oversight since the system [has had]
2 not been independently evaluated since 1988. [As a result of that process, the
3 City Council abolished the then existing Public Safety Advisory Board, and in
4 lieu thereof establish a current Police Oversight Commission (POC).]

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

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

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

19 ~~—— (F) As a result of the advice of the Council's expert consultants,~~
20 ~~recommendations from the Police Oversight Task Force, and testimony and~~
21 ~~comments received from the public, the Council believes it is now appropriate~~
22 ~~and necessary for the citizens of Albuquerque and its Police Department to~~
23 ~~abolished the then existing Public Safety Advisory Board, and in lieu thereof~~
24 ~~establish a Police Oversight Commission (POC).~~

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

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

1 recommendations.

2 ([HD]) The Council understands that a properly conceived and
3 functioning police oversight system is necessary to promote accountability of
4 the police officers and protect the rights of civilians[, and finds that adopting
5 the recommendations of the POTF will advance these goals].

6 [(E) The Council hereby abolishes the POC effective December 31,
7 2014, and simultaneously replaces it with a Civilian Police Oversight Agency
8 as prescribed by this Article.]

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

11 There is hereby created a [Civilian] Police Oversight [Commission
12 Agency] ([POCCPOA]) to provide [policy guidance for, and] oversight of the
13 Albuquerque Police Department and [to] oversee all citizen complaints as
14 follows:

15 (A) [Composition.] The [POCCPOA] shall be composed of nine
16 members[, one from each City Council District,] who broadly represent the
17 diversity [and demographics] of this community, [who are representative of
18 the stakeholders of the police oversight process,] and who reside within the
19 City of Albuquerque. [There shall be one member of the Police Oversight
20 Commission representing each City Council District.]

21 (B) [Qualifications.] The following are the minimum qualifications
22 for members of the [Civilian] Police Oversight [Commission Agency]:

23 (1) [Have not been employed by law enforcement for one
24 year prior to appointment Residency within the City of Albuquerque]; and

25 (2) [Problem solving and conflict resolution skills
26 Successfully pass a background check]; and

27 (3) [Attend a yearly four-hour civil rights training session to
28 be conducted by a civil rights attorney or advocacy group Personal history
29 lacking any pattern of unsubstantiated complaints against APD]; and

30 (4) [A willingness to commit the necessary time each month
31 for POC hearings and a commitment to prepare and read all materials
32 distributed prior to the monthly POC meetings A demonstrated ability to
33 engage in mature, impartial decision making.]; and

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

3 ~~_____ (6) Attend a yearly Firearms Training Simulator (FATS)~~
4 ~~training at the APD Police Academy.]~~

5 (C) ~~[Appointment. When a vacancy on the [POCCPOA] occurs,~~
6 ~~the Each City] Councilor representing the District in which [the vacating~~
7 ~~member of the [POCCPOA] resides a vacancy exists] shall [nominate two~~
8 ~~members to the who reside in his or her respective Council District. The Mayor~~
9 ~~shall then] appoint one [of these recommended] member[s] to the [POCCPOA]~~
10 ~~with the advice and consent of the Council; provided, however, if a member is~~
11 ~~eligible for reappointment [to the POC] and the Councilor in whose District~~
12 ~~that member resides desires to reappoint the member, the Councilor shall so~~
13 ~~notify the Council and the member shall be reappointed subject to the advice~~
14 ~~and consent of the Council. [If a member is not being reappointed, the Mayor~~
15 ~~shall deliver to the Council the Mayor's recommendation from the two names~~
16 ~~submitted within 30 days of delivery of the two names to the Mayor. If the~~
17 ~~Mayor fails to timely make a recommendation from the two names submitted,~~
18 ~~the Councilor who submitted the names may appoint one of the two~~
19 ~~recommended members subject to the advice and consent of the Council. No~~
20 ~~member of the Police Oversight Commission existing as of the date of the~~
21 ~~adoption of this amended ordinance shall be appointed to the first board of~~
22 ~~the CPOA.]~~

23 (D) ~~[Term. CPOA members shall serve a maximum of two~~
24 ~~three-year terms on a staggered basis so that no more than five of the~~
25 ~~members are eligible for reappointment or replacement each year. The Mayor~~
26 ~~may notify a Councilor in writing that his or her District member's term has~~
27 ~~expired or the position is otherwise vacant and the Councilor shall have 60~~
28 ~~days to submit two recommended appointments to fill that position. If the~~
29 ~~Councilor fails to submit two names within 60 days of notification, the Mayor~~
30 ~~shall have the right to make the appointment subject to the advice and~~
31 ~~consent of the City Council.]~~

32 (E) ~~[The terms of the members of the POC shall be for three years~~
33 ~~and shall be staggered so that no more than five of the members are eligible~~

1 ~~for reappointment or replacement each year.~~

2 ~~——(F) Removal. CPOA members may be removed with or without~~
3 ~~cause at the discretion of the appointing City Councilor.]~~ The appointment
4 of any member ~~[of the POC]~~ who has been absent and not excused from three
5 consecutive regular or special meetings shall automatically expire effective on
6 the date the fact of such absence is reported by the Commission to the City
7 Clerk. The City Clerk shall notify any member whose appointment has
8 automatically terminated and report to the City Council that a vacancy exists
9 on said Commission and that an appointment should be made for the length of
10 the unexpired term.

11 ~~[(F) Orientation and Training. Upon appointment, CPOA members~~
12 ~~shall complete an orientation and training program consisting of the following:~~

13 ~~(1) Required Orientation. Prior to participation in any~~
14 ~~meeting of the CPOA, a newly appointed member must first:~~

15 ~~(a) Review and familiarization themselves with CPOA~~
16 ~~and APD rules, policies, and procedures; and~~

17 ~~(b) Attend at least one CPOA meeting as an observer~~
18 ~~(except initial appointees).~~

19 ~~(2) Required Training. Each CPOA member shall complete a~~
20 ~~training program within the first six months of their appointment that consists,~~
21 ~~at a minimum, of the following:~~

22 ~~(a) Completion of the APD Civilian Police Academy;~~

23 ~~(b) Civil Rights training;~~

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

25 ~~(d) Annual firearms simulation training;~~

26 ~~(e) Internal Affairs training;~~

27 ~~(f) Use of Force training, including a review and~~

28 ~~familiarization with the APD Use of Force Policy;~~

29 ~~(g) Equity and Cultural Sensitivity training; and~~

30 ~~(f) Periodic additional training on items (b) through~~

31 ~~(f) above, or other periodic training as determined by the Mayor, City Council~~
32 ~~or the CPOA.~~

33 ~~(3) Recommended Training. CPOA members are~~

1 encouraged to attend conferences and workshops relating to police oversight,
2 such as the annual NACOLE conference at City expense depending on budget
3 availability.]

4 (G) [Chair.] T~~hat th~~e [POCCPOA] shall elect one of its
5 members as the Chairperson and one as Vice-Chairperson, who shall each
6 hold office for one year and until their successors are elected. No officer shall
7 be eligible to succeed himself or herself in the same office. Officers shall be
8 elected in the month of March of each calendar year.

9 (H) [Subcommittees.] The [POCCPOA] may appoint such
10 subcommittees as are deemed necessary or desirable for the purposes of §§
11 9-4-1-1 through 9-4-1-14, provided that, membership on such subcommittees
12 shall be limited to ~~[the Commission~~ CPOA] members.

13 (I) [Independence. The CPOA is independent of the Mayor's
14 Office, the City Council, the Albuquerque Police Department, and all other
15 municipal departments and divisions.

16 (1) Facility Location.] T~~hat t~~he [POCCPOA] and its
17 investigative arm, the IRO, shall be housed in a facility that is separate from
18 any police presence and is located outside of the Albuquerque/Bernalillo
19 Government Center, the Police Department and/or all of the police
20 substations.

21 (2) Budget. The CPOA shall have a dedicated and
22 independent source of funding equal to ½% of APD's annual operation budget,
23 administer its own budget and supervise its own staff in compliance with the
24 City's Merit Ordinance and contractual services policies and procedures.

25 (3) Professional Legal Services. The CPOA may retain or
26 employ independent legal counsel on a contractual basis to advise and
27 represent to the CPOA. If so retained, the CPOA's legal counsel shall
28 represent the CPOA in the courts, and shall advise the CPOA as to any legal
29 matters.]

30 (J) [Staff. That the City Council and the Mayor's Office shall jointly
31 provide staff assistance at all regularly scheduled meetings and at special
32 meetings held pursuant to signed petitions. The CPOA shall employ such
33 staff as necessary to carry out its functions as prescribed by this Article,

1 including but not limited to ~~All other staff support shall be provided by~~ the
2 IRO and/or the Independent Review Office staff [subject to City personnel
3 policies and procedures].

4 § 9-4-1-5 POWERS AND DUTIES OF THE [COMMISSION CPOA].

5 The [Civilian] Police Oversight [Commission Agency is responsible
6 for the full range of civilian police oversight from investigation of individual
7 citizen police complaints through policy formulation, and] shall have the
8 following powers and duties:

9 (A) [Community Outreach. The CPOA shall develop, implement,
10 and from time to time amend as necessary, a program of community outreach
11 aimed at soliciting public input from the broadest segment of the community
12 in terms of geography, culture, ethnicity, and socio-economics. The CPOA
13 shall report its community outreach efforts to the City Council on an annual
14 basis.

15 (B) Promotion of Accountability. ~~To~~ The CPOA shall] promote a
16 spirit of accountability and communication between the citizens and the
17 Albuquerque Police Department while improving community relations and
18 enhancing public confidence.

19 [(C) Investigations. The CPOA shall ~~To~~] oversee the full
20 investigation and/or mediation of all citizen complaints [through its
21 investigation arm, the Internal Review Office]; audit and monitor all
22 investigations and/or police shootings under investigation by APD's Internal
23 Affairs; however, the [POCCPOA] will not investigate any complaints other
24 than those filed by citizens. All complaints filed by police officers will be
25 investigated by Internal Affairs. [However, Internal Affairs shall provide a
26 weekly update to the IRO on open internal investigations.]

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

30 (2) Investigation Audits; Access to Files. As part of its
31 oversight of the Internal Review Office, the CPOA shall periodically audit
32 individual Citizen Police Complaint Investigations. For purposes of its audit
33 function, the CPOA shall have full access to investigation files and may

1 subpoena such documents and witnesses as may be necessary.

2 (3) Disciplinary Recommendations. The CPOA may, in
3 its discretion, recommend officer disciplinary action from the Chart of
4 Sanctions for investigations that result in sustained Citizen Police Complaints.
5 Imposition of the recommended discipline is at the discretion of the Chief of
6 Police, but if the Chief of Police shall respond to the CPOA in writing with the
7 reason as to why the recommended discipline was not imposed.

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

10 (D) [Direct the IRO. The CPOA shall To select, hire, direct and]
11 review all work of the IRO with respect to quality, thoroughness, and
12 impartiality of investigations].

13 (E) [The CPOA shall] Submit a quarterly report to the Mayor and
14 City Council according to § 9-4-1-10 herein.

15 (F) [The CPOA shall To] submit all findings to the Chief of Police.
16 The Chief will have final disciplinary authority.

17 (G) [Develop Policy. The CPOA shall review trend data collected
18 by IRO analysts and make policy recommendations regarding APD policy,
19 training, programs and procedures to APD and to the City Council. The CPOA
20 shall To] engage in a long-term planning process through which it identifies
21 major problems and establishes a program of policy suggestions and studies
22 each year.

23 (1) The Police Chief shall respond in writing to any such
24 policy recommendations by the CPOA, and indicate whether they will be
25 followed or should be adopted by the City Council, or explain any reasons why
26 such policy recommendations will not be followed or should not be adopted.

27 (H) [The CPOA shall To] conduct regularly scheduled public
28 meetings with a prepared agenda that is distributed in advance to the Mayor,
29 City Council, Police Chief, and City Attorney, and that complies with the New
30 Mexico Open Meetings Law. Each ~~[POCCPOA]~~ meeting will begin with public
31 comments and only the regularly scheduled monthly meetings and special
32 meetings held pursuant to submission of petitions will be televised live on the
33 appropriate government access channel. All other meetings of the

1 **[POCCPOA]** will comply with the Open Meetings Law and shall be videotaped
2 and aired on the appropriate government access channel; however, there is no
3 requirement for providing live television coverage.

4 (I) **[Budget Proposals. The CPOA shall To]** recommend **[and**
5 **propose its budget]** to the Mayor and City Council during the city's budget
6 process, **[their proposed budget]** for provision of such staff **[and expenses as**
7 **is]** necessary to carry out the powers and duties under §§ 9-4-1-1 through 9-4-
8 1-14, including the funding for the Independent Review Office, staff, and all
9 necessary operating expenses. **[The Mayor shall propose the annual budget**
10 **to the City Council in the annual budget message.**

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

14 **§ 9-4-1-6 INDEPENDENT REVIEW OFFICE.**

15 (A) The Independent Review Office is hereby established and shall
16 be directed by an Independent Review Officer (IRO).

17 (B) The IRO shall be given autonomy and shall perform all duties
18 under the direction of the **[POCCPOA]**. There will be no attorney-client
19 privilege between the IRO and the city.

20 (C) The Independent Review Office will receive all citizen
21 complaints and claims directed against the Albuquerque Police Department
22 and any of its officers. The IRO will review such citizen complaints and assign
23 them for **[investigation to either the Albuquerque Police Department for an**
24 **internal administrative]** investigation or to an independent investigator. The
25 IRO will oversee, monitor and review all such investigations and make
26 findings for each. All findings relating to citizen complaints and police
27 shootings will be forwarded to the **[POCCPOA]**. The IRO may review
28 completed IA cases and discuss those cases with the Chief or **[his the Chief's]**
29 designee. In any instance, the Chief of Police will have the sole authority for
30 discipline. For all investigations, the IRO will make recommendations and
31 give advice regarding Departmental policies and procedures to the
32 **[POCCPOA]**, City Council, and the Mayor as the IRO deems advisable,
33 provided as follows:

1 (1) ~~[That-I]~~Investigation of all citizen complaints filed with
2 the Independent Review Office shall begin immediately after complaints are
3 filed and proceed as expeditiously as possible; and

4 (2) ~~[That-a A]~~All citizen complaints filed with other offices
5 within the city authorized to accept citizen complaints, including the Police
6 Department, shall be referred to the IRO for investigation; and

7 (3) [Mediation should be the first option for resolution of
8 Citizen Police Complaints. Mediators should be independent of the CPOA,
9 APD, and the City, and should not be former officers or employees of APD.

10 ~~That-a A]~~t the discretion of the IRO an impartial system of mediation [~~may~~
11 should] be considered appropriate for certain complaints. If all parties
12 involved reach an agreement, the mediation is considered successful and no
13 investigation will occur; and

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

18 (5) ~~[That-a A]~~All investigations shall be thorough, objective,
19 fair, impartial, and free from political influence; and

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

23 (7) The process for finalizing findings on police shooting
24 cases shall be the same as the process for finalizing findings on citizen police
25 complaints.

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

30 (E) The IRO shall make recommendations to the ~~[POC~~CPOA] and
31 APD on specific training, changes in policy or duty manuals. APD will
32 respond, in writing, to all recommendations from the IRO or ~~[POC~~CPOA]
33 within 60 days~~[.F and shall f]~~ollow up and monitor all recommendations to

1 verify their adoption and implementation; and

2 (F) The Independent Review Office shall provide staff assistance
3 for the ~~[POCCPOA]~~ and coordinate and provide technical support for all
4 scheduled ~~[Police Oversight Commission CPOA]~~ meetings, publicize all
5 findings and reports, recommendations, and/or suggested policy changes;
6 and

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

12 (H) Neither the City Council nor any of its members, nor the Mayor
13 shall in any manner dictate the appointment or removal of any such employee
14 of the Independent Review Office.

15 § 9-4-1-7 INDEPENDENT REVIEW OFFICER.

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

20 (B) The position of IRO will be a full-time contractual [city]
21 employee to be selected ~~[by the CPOA. as follows:~~

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

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

27 ~~_____ (3) The City Council may accept or reject the Mayor's~~
28 ~~nominee.~~

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

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

1 (C) The IRO will be provided the necessary professional and/or
2 clerical employees for the Office, and shall prescribe the duties of these staff
3 members after consultation with the members of the [POCCPOA]. Such
4 professional and clerical employees will be classified city employees.

5 (D) The IRO will report directly to the [POCCPOA] and act as Lead
6 Investigator and Manager of the Office; will supervise all investigations of
7 citizen complaints against police officers, will audit all investigations of
8 complaints and/or police shootings, will recommend and participate in
9 mediation of certain complaints, and will supervise all Independent Review
10 Office staff.

11 (E) The term of the IRO shall be for two years~~[, commencing~~
12 ~~immediately upon approval by the City Council. The Mayor, with the approval~~
13 ~~of the City Council, shall have the option to renew or extend the contract with~~
14 ~~the IRO for additional two-year periods].~~ Negotiations to renew or extend the
15 contract shall be completed three months prior to the contract expiring.
16 Should the contract not be renewed or extended, the IRO may continue to
17 serve in the same capacity until a new IRO is selected [by the CPOA and
18 ~~approved by the City Council].~~ If the IRO or the [Mayor CPOA] chooses not to
19 renew or extend the contract, the [POCCPOA] shall [~~be~~] immediately [~~notified.~~
20 ~~The POC will then immediately]~~ begin a candidate search, as described in § 9-
21 4-1-7(B)(1). If for some unforeseen reason there is a period of time during
22 which there is no IRO, the [Mayor CPOA] may appoint a temporary IRO~~[, with~~
23 ~~the consent and approval of the City Council].~~ A temporary IRO shall only
24 serve in that capacity for a period not to exceed six months.

25 § 9-4-1-8 CITIZEN COMPLAINT PROCEDURES.

26 (A) Any person claiming to be aggrieved by actions of the Police
27 may file a written complaint against the department or any of its officers. The
28 [POCCPOA] shall submit rules and regulations governing citizen complaint
29 procedures to the Mayor and City Council for approval, including rules and
30 regulations relative to time limits, notice and other measures to insure
31 impartial review of citizens' complaints against members of the police
32 department.

33 (B) [In cooperation with the IRO, T-t]he Mayor shall designate

1 civilian city staff to receive written citizen complaints at various locations
2 throughout the city. The Police Department may also receive written
3 complaints. Such complaints shall be filed with the civilian city staff no later
4 than [90 120] days after the action complained of. The party who receives the
5 complaint shall transmit all citizen complaints for further investigation to the
6 IRO. If a citizen complaint is determined to not merit further investigation, the
7 complainant shall be notified of that determination by certified mail.

8 (C) After the investigation is completed, the IRO and the Chief, or
9 his designee, shall consider the investigation and all other relevant and
10 material evidence offered by the person investigated. The IRO and Chief may
11 confer and discuss the investigation and findings. The IRO shall then submit
12 his findings and public record letter to the [POCCPOA] for review and
13 approval. The public record letter to the citizen will only be sent after approval
14 by the [POCCPOA].

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

24 (E) When the Chief, or his designee, and the IRO agree on the
25 findings of the [POCCPOA], these findings will be considered final and cannot
26 be changed by the Chief, or his designee, or the IRO at any time without first
27 notifying the [POCCPOA], the IRO, the complainant, and the individual(s)
28 against whom the complaint was filed, by certified mail. Upon such
29 notification the [POCCPOA] will place the matter on its agenda for a regularly
30 scheduled meeting and decide whether the findings should be changed
31 because (1) of newly discovered evidence which by due diligence could not
32 have been known at the time of the original finding, or (2) the original finding
33 was based on fraud, misrepresentation, or other misconduct.

1 (F) The findings of the [POCCPOA]/IRO shall be placed with the
2 Chief's findings on the Internal Affairs Unit Disciplinary Status Sheet. The
3 form will be filed in the CPC complaint file and the officer's retention file.

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

8 § 9-4-1-9 APPEALS.

9 (A) A summary and findings of the investigation conducted
10 pursuant to the direction of the IRO shall be forwarded to the complainant and
11 to the [POCCPOA]. A copy of the IRO's public record letter shall also be
12 forwarded to the complainant and to the [POCCPOA]. Any person who has
13 filed a citizen complaint and who is dissatisfied with the findings of the IRO
14 may appeal that decision to the [POCCPOA] within ten business days of
15 receipt of the public record letter. The [POCCPOA] may upon appeal modify
16 or change the findings and/or recommendations of the IRO and may make
17 further recommendations to the Chief regarding the findings and/or
18 recommendations and any discipline imposed by the Chief or proposed by the
19 Chief. Within 20 days of receipt of the appellate decision of the [POCCPOA],
20 the Chief shall notify the [POCCPOA] and the original citizen complainant of
21 his decision in this matter in writing, by certified mail.

22 (B) If any person who has filed a citizen complaint under §§ 9-4-1-
23 1 through 9-4-1-14 is not satisfied with the final decision of the Chief of Police
24 on any matter relating to his complaint, he may request that the Chief
25 Administrative Officer review the complaint, the findings of the IRO and
26 [POCCPOA] and the action of the Chief of Police by requesting such review in
27 writing within ten business days of receipt of the Chief's letter pursuant to § 9-
28 4-1-9(A). Upon completion of his review, the Chief Administrative Officer shall
29 take any action necessary, including overriding the decision of the Chief of
30 Police regarding disciplinary action, to complete the disposition of the
31 complaint. The Chief Administrative Officer shall notify in writing, by certified
32 mail, the complainant, the individual against whom the complaint was filed,
33 the Chief of Police and the IRO of the results of his review and any action he

1 has taken.

2 § 9-4-1-10 REPORTS.

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

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

8 (B) Discussion of issues of interest undertaken by the [POCCPOA]
9 which may include suggested policy and/or procedural changes, a listing of
10 complaints and allegations by Council District, statistical ethnicity of subject
11 officers, statistical ethnicity of complainants, and updates on prior issues
12 and/or recommendations;

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

16 (D) Information on all public outreach initiatives undertaken by
17 either the [POCCPOA] or the IRO such as speaking engagements, public
18 safety announcements, and/or public information brochures on the oversight
19 process.

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

23 § 9-4-1-11 EVALUATION.

24 Contingent upon funding, in the first six months of [2005 2016] and
25 at least every four years thereafter, from adoption of §§ 9-4-1-1 through 9-4-1-
26 14, the City Council shall issue a Request for Proposal for an independent
27 consultant to undertake a complete evaluation and analysis of the entire
28 Police Oversight Process, and recommend any necessary changes or
29 amendments that would appropriately improve the process.

30 § 9-4-1-12 SPECIAL MEETINGS.

31 On the petition of 1,000 or more citizens in the City of Albuquerque
32 filed in the Office of the City Clerk, the [~~Commission~~ CPOA] shall hold a
33 special meeting for the purpose of responding to the petition and hearing and

1 inquiring into matters identified therein as the concern of the petitioners.
2 Copies of the petition shall be filed by the [~~Commission~~ CPOA] with the City
3 Clerk. Notice of such meeting shall be given in the same manner as notice is
4 given for other meetings of the [~~Commission~~ CPOA] and shall comply with the
5 State Open Meetings Law.

6 § 9-4-1-13 CONFIDENTIALITY.

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

19 § 9-4-1-14 MANDATORY COOPERATION AGREEMENT.

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

1 complainant.

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

9 **SECTION 3. COMPILATION.** The ordinance amendment prescribed by
10 **SECTION 1** shall amend, be incorporated in and made part of the Revised
11 Ordinances of Albuquerque, New Mexico, 1994.

12 **SECTION 4. EFFECTIVE DATE.** This ordinance shall be published by title
13 and general summary and the publication shall include a statement that this
14 ordinance shall become effective on January 1, 2015.

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