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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~~

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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

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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~~

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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

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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~~

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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, including any Garrity material, and witnesses as  
31 relevant to its audit function.

32 (c) Disciplinary Recommendations. The  
33 CPOA may, in its discretion, recommend officer disciplinary action from the

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

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

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

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

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

27 [§ 9-4-1-5 THE CPOA POLICE OVERSIGHT BOARD

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

33 (B) Qualifications. The following are the minimum qualifications

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1 for members of the POB:

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

4                   (2) Successfully pass a background check]; and

5                   (3) Personal history lacking any pattern of unsubstantiated  
6 complaints against APD; and

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

9                   (5) Residency within the City of Albuquerque.

10           (C) Appointment of Members. ~~Each~~The City Council  
11 representing the District in which a vacancy exists Council shall appoint one  
12 member establish a well-publicized, fair and equitable application process for  
13 appointment to the POB with the advice and consent. The City Council,  
14 through its staff, shall accept applications from prospective POB members.  
15 Staff shall formulate recommendations for appointments based on evaluation  
16 of the Council; provided, however, if qualification criteria listed in subsections  
17 'A' and 'B' above and submit recommendations for appointment(s) to the City  
18 Council for its approval. If a member is eligible for reappointment and the  
19 Councilor in whose District, staff may recommend reappointment of that  
20 member resides desires to reappoint the member, the Councilor shall so notify  
21 the Council and the member shall be reappointed subject to the advice and  
22 consent of the Council without a formal application process. No member of  
23 the Police Oversight Task Force, or the current Police Oversight Commission  
24 existing as of the date of the adoption of this amended ordinance shall be  
25 appointed to the first board of the POB.

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

29           (E) Removal of Members. Any POB membersmember may be  
30 removed for cause by a two-thirds majority vote of either the POB itself or the  
31 City Council. The appointment of any member who has been absent and not  
32 excused from three consecutive regular or special meetings shall  
33 automatically expire effective on the date the fact of such absence is reported

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1 by the POB to the City Clerk. The City Clerk shall notify any member whose  
2 appointment has automatically terminated and report to the City Council that a  
3 vacancy exists ~~and that requiring~~ an appointment ~~should be made~~ for the  
4 length of the unexpired term.

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

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

9 (a) Be trained by the CPOA staff or CPOA legal  
10 counsel on CPOA and APD rules, policies, and procedures;  
11 and

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

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

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

18 (b) Civil Rights training;

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

20 (d) Annual firearms simulation training;

21 (e) Internal Affairs training;

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

24 (g) Equity and Cultural Sensitivity training; and

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

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

31 (G) Chair. The POB shall elect one of its members as the  
32 Chairperson and one as Vice-Chairperson, who shall each hold office for one  
33 year and until their successors are elected. No officer shall be eligible to

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1 succeed himself or herself in the same office. Officers shall be elected in the  
2 month of March of each calendar year or upon vacancy of an office to fill the  
3 remaining term.

4 (H) Subcommittees. The POB may appoint such subcommittees  
5 as are deemed necessary or desirable for the purposes of §§ 9-4-1-1 through  
6 9-4-1-14, provided that, membership on such subcommittees shall be limited  
7 to POB members.

8 (1) Investigations and Appeals Subcommittees. There is  
9 hereby established the Investigations and Appeals Committees (the "IAC) as  
10 standing subcommittees of the POB. Each IAC shall consist of three POB  
11 members who shall serve on an IAC on random, monthly rotational basis.  
12 Each IAC may meet beyond the month of its rotation in order to complete  
13 investigations or appeals. The IAC's shall:

14 (a) Review and analyze each use of force and officer  
15 involved shooting investigation submitted by the RO during the month of  
16 rotation and approve findings or public record letters on these prior to their  
17 release by the RO. IAC's shall retain jurisdiction over each investigation  
18 beyond the rotation month until completion; and

19 (b) Hear appeals of all citizen complaints other than  
20 those dealing with use of force or officer involved shootings. IAC's shall  
21 retain jurisdiction over each appeal beyond the rotation month until  
22 completion.

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

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

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

29 ~~(G) To engage in a long term planning process through which it~~  
30 ~~identifies major problems and establishes a program of policy suggestions~~  
31 ~~and studies each year.]~~

32 ~~(H)(I) Meetings. The POB shall To] conduct regularly scheduled~~  
33 ~~public meetings with a prepared agenda that is distributed in advance to the~~

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1 Mayor, City Council, Police Chief, and City Attorney, and that complies with  
2 the New Mexico Open Meetings Law. Each [POCPOB] meeting will begin with  
3 public comments and only the regularly scheduled monthly meetings and  
4 special meetings held pursuant to submission of petitions will be televised  
5 live on the appropriate government access channel. All other meetings of the  
6 [POCPOB] will comply with the Open Meetings Law and shall be videotaped  
7 and aired on the appropriate government access channel; however, there is no  
8 requirement for providing live television coverage.

9 [1. Public Comment. The POB shall allow general public  
10 comment at each of its meetings, and the POB shall also allow comment on  
11 each of its agenda items.]

12 ~~[(I) — To recommend to the Mayor and City Council during the city's~~  
13 ~~budget process, their proposed budget for provision of such staff as is]~~  
14 ~~necessary to carry out the powers and duties under §§ 9-4-1-1 through 9-4-1-~~  
15 ~~14, including the funding for the Independent Review Office, staff, and all~~  
16 ~~necessary operating expenses. The Mayor shall propose the annual budget to~~  
17 ~~the City Council in the annual budget message.~~

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

21 § 9-4-1-6 [INDEPENDENT REVIEW CPOA ADMINISTRATIVE] OFFICE.

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

25 (B) The [IRO] shall ~~[be given autonomy and shall oversee~~  
26 CPOA citizen complaint and officer involved shooting investigations, provide  
27 staffing to the Police Oversight Board, ensure that the duties and  
28 responsibilities of the CPOA are executed in an efficient manner, and manage  
29 the day to day operations of the CPOA. ~~perform all duties under the direction~~  
30 ~~of the POC. There will be no attorney-client privilege between the IRO and the~~  
31 ~~city.]~~

32 (C) The [Independent Review Administrative] Office will receive  
33 [and process] all citizen complaints and claims directed against the

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1 Albuquerque Police Department and any of its officers. The [IRORO] will  
2 review such citizen complaints and assign them for [investigation to either the  
3 Albuquerque Police Department for an internal administrative] investigation  
4 [by CPOA staff] or to an [outside] independent investigator. The [IRORO] will  
5 oversee, monitor and review all such investigations and make findings for  
6 each. All findings relating to citizen complaints and police shootings will be  
7 forwarded to the [POCPOB]. The [IRORO] may review completed IA cases and  
8 discuss those cases with the Chief or [his the Chief's] designee. In any  
9 instance, the Chief of Police will have the sole authority for discipline. For all  
10 investigations, the [IRORO] will make recommendations and give advice  
11 regarding [Police] Department[al] policies and procedures to the [POCPOB],  
12 City Council, and the Mayor as the [IRORO] deems advisable[, provided as  
13 follows:]

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

17 (2) [~~That a A~~] All citizen complaints filed with other offices  
18 within the city authorized to accept citizen complaints, including the Police  
19 Department, shall be immediately referred to the [IRORO] for investigation;  
20 and

21 (3) Mediation should be the first option for resolution of  
22 Citizen Police Complaints. Mediators should be independent of the CPOA,  
23 APD, and the City, and should not be former officers or employees of APD.  
24 ~~That a A~~ the discretion of the [IRORO] an impartial system of mediation [~~may~~  
25 should] be considered appropriate for certain complaints. If all parties  
26 involved reach an agreement, the mediation is considered successful and no  
27 investigation will occur; and

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

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

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

4 ~~\_\_\_\_\_ (7) The process for finalizing findings on police shooting~~  
5 ~~cases shall be the same as the process for finalizing findings on citizen police~~  
6 ~~complaints.]~~

7 (D) The ~~[IRORO]~~ shall have access to any Police Department  
8 information or documents that are relevant to a citizen's complaint, or to an  
9 issue which is ongoing at ~~[the Independent Review Office or]~~ the ~~[POGCPOA]~~;  
10 and

11 (E) The ~~[IRORO]~~ shall make recommendations to the ~~[POCPOB]~~  
12 and APD on specific training, changes in policy or duty manuals. APD will  
13 respond, in writing, to all recommendations from the ~~[IRORO]~~ or ~~[POCPOB]~~  
14 within 60 days. ~~[F The RO shall f]ollow up and monitor all recommendations to~~  
15 ~~verify their adoption and implementation; and~~

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

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

26 (H) The RO will be provided the necessary professional and/or  
27 clerical employees for the effective staffing of the Administrative Office, and  
28 shall prescribe the duties of these staff members. Such professional and  
29 clerical employees will be classified city employees.

30 \_\_\_\_\_ (I) The RO will report directly to the POB and act as Lead  
31 Investigator and Director of the Administrative Office; will supervise all  
32 investigations of citizen complaints against police officers, will audit all IA  
33 investigations of complaints, will recommend and participate in mediation of

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1 certain complaints, and will supervise all CPOA staff.]

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

5 § 9-4-1-7 [INDEPENDENT] REVIEW OFFICER [QUALIFICATIONS AND  
6 SELECTION].

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

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

13  ~~(1) The POB, through its staff, shall accept applications~~  
14  ~~from candidates. The POB shall review the applications and interview~~  
15  ~~candidates, and submit to the City Council a ranked list of the three~~  
16  ~~candidates that it finds to be the best qualified to be the RO and the City~~  
17  ~~Council shall appoint the RO from the three by adoption of a resolution. The~~  
18  ~~POB's recommendation to Council shall be~~ (1)  ~~The POB shall~~  
19  ~~select an RO by majority vote based on an open and competitive interview~~  
20  ~~process. Candidates for the RO position shall be evaluated and selected~~  
21  ~~based on the candidates' integrity, capability for strong management and~~  
22  ~~abilities in investigations, law, management analysis, public administration,~~  
23  ~~criminal justice administration or other closely related fields.~~

24 (2) In lieu of ~~recommending three candidates to the~~  
25 ~~Council~~ open recruitment, the POB may ~~recommend to the Council the~~  
26 ~~reconfirmation of~~ by majority vote choose to retain the incumbent RO. Should  
27 the Council decline to reconfirm the incumbent RO, the Council President will  
28 notify the POB that it needs to provide the Council with three alternate  
29 candidates pursuant to the provisions of Subsection (B)(1). Should the RO  
30 not be reconfirmed, the current RO may continue to serve in the same  
31 capacity until a new RO is selected and approved by the City Council. If for  
32 some unforeseen reason there is a period of time during which there is no RO,  
33 the City Council POB may appoint a temporary RO of its choosing by a

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1 majority vote. A temporary RO shall serve in that capacity only for a period  
2 not to exceed six months.

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

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

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

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

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

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

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

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

29 ~~(E) The term of the IRO shall be for two years, commencing~~  
30 ~~immediately upon approval by the City Council. The Mayor, with the approval~~  
31 ~~of the City Council, shall have the option to renew or extend the contract with~~  
32 ~~the IRO for additional two-year periods. Negotiations to renew or extend the~~  
33 ~~contract shall be completed three months prior to the contract expiring.~~

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

10 § 9-4-1-8 CITIZEN COMPLAINT PROCEDURES.

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

25 (B) [In cooperation with the IRORO, T-t]he Mayor shall designate  
26 civilian city staff to receive written citizen complaints at various locations  
27 throughout the city. The Police Department may also receive written  
28 complaints. ~~[Such complaints shall be filed with the civilian city staff no later~~  
29 ~~than 90 days after the action complained of.]~~ The party who receives the  
30 complaint shall [immediately] transmit all citizen complaints for further  
31 investigation to the [IRORO]. ~~[If a citizen complaint is determined to not merit~~  
32 ~~further investigation, the complainant shall be notified of that determination by~~  
33 ~~certified mail.]~~

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1 ~~(C)~~ (C) Investigations of Use of Force and Officer  
 2 Involved Shootings. After the investigation is completed, the ~~IRORO~~ and the  
 3 Chief, or his designee, shall ~~consider the investigation and analyze~~ all  
 4 ~~other~~ relevant and material ~~circumstances, facts and~~ evidence ~~offered by~~  
 5 the person investigated, gathered under the investigation and formulate  
 6 ~~findings~~, and submit me them to the IAC on rotation. The ~~IRORO~~IAC shall  
 7 hold at least one meeting to review and vote upon approval of findings and a  
 8 disciplinary recommendation, and it may subpoena documents (including  
 9 Garrity material) and witnesses as necessary, and hold any closed hearings as  
 10 necessary to protect confidentiality and as permitted under the New Mexico  
 11 Open Meetings Act. ~~The IRO and Chief may confer with the and~~ Chief ~~may~~  
 12 ~~confer and to~~and discuss the investigation and findings, ~~but the findings of~~  
 13 ~~the RO are final unless appealed~~. The ~~IRORO~~ shall ~~then submit~~ prepare  
 14 and submit the IAC's ~~his~~ ~~for her~~ findings and [a] public record letter ~~to the~~  
 15 citizen complainant with a copy to the ~~Chief and the POCPOB~~ for information  
 16 purposes. The findings of the IAC are final unless appealed to the full POB.  
 17 The RO or the IAC may share any disciplinary recommendations with the Chief  
 18 in advance of the issuance of the public record letter only as necessary to  
 19 ensure their timeliness pursuant to any applicable personnel or union contract  
 20 requirements. The POB should review the public record letters and use them  
 21 to identify any trends and inform its policy making process. After the  
 22 expiration of the appeal period, the POB may audit any investigation that  
 23 resulted in an un-appealed public record letter, for review and approval. ~~The~~  
 24 ~~public record letter to the citizen will only be sent after approval by the POC.~~

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25 ~~(D)~~ (D) Investigations other than Use of Force and  
 26 Officer Involved Shootings. After the investigation is completed, the RO shall  
 27 analyze all relevant and material circumstances, facts and evidence gathered  
 28 under the investigation and formulate findings. The RO shall prepare and  
 29 submit his or her findings and a public record letter to the citizen complainant  
 30 with a copy to the Chief and the POB for information purposes. The findings  
 31 of the RO are final unless appealed to the IAC. The decision of the IAC on  
 32 appeal is final. The RO or the IAC may share any disciplinary  
 33 recommendations with the Chief in advance of the issuance of the public

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1 record letter or final decision only as necessary to ensure their timeliness  
2 pursuant to any applicable personnel or union contract requirements. The  
3 POB should review the public record letters and use them to identify any  
4 trends and inform its policy making process. After the expiration of the appeal  
5 period, the POB may audit any investigation that resulted in an un-appealed  
6 public record letter. If the Chief, or his designee, and the IRO disagree on the  
7 IRO's findings, the POC will receive the complaint to review at the next  
8 regularly scheduled meeting. The POC will treat the complaint as a Non-  
9 Concurrence Issue and after conducting a hearing can keep, modify, or  
10 change the original findings and/or recommendations of the IRO. If the  
11 POC/IRO and Chief do not agree on the findings of any citizen complaint, the  
12 Chief Administrative Officer will review the investigation and render a final  
13 decision, acting with the same authority and power as described in § 9-4-1-  
14 9(B).

15 ~~—— (E) —~~ When the Chief, or his designee, and the IRO agree on the  
16 findings of the POC, these findings will be considered final and cannot be  
17 changed by the Chief, or his designee, or the IRO at any time without first  
18 notifying the POC, the IRO, the complainant, and the individual(s) against  
19 whom the complaint was filed, by certified mail. Upon such notification the  
20 POC will place the matter on its agenda for a regularly scheduled meeting and  
21 decide whether the findings should be changed because (1) of newly  
22 discovered evidence which by due diligence could not have been known at the  
23 time of the original finding, or (2) the original finding was based on fraud,  
24 misrepresentation, or other misconduct.

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

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

32 § 9-4-1-9 APPEALS.

33 (A) [A summary and findings of the investigation conducted

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1 pursuant to the direction of the IRO shall be forwarded to the complainant and  
2 to the POC. A copy of the IRO's public record letter shall also be forwarded to  
3 the complainant and to the POC]. Any person who has filed a citizen  
4 complaint [with an allegation relating to use of force] and who is dissatisfied  
5 with the findings of the ~~[IRO]~~[IRO]~~[IAC]~~[IAC] may appeal that decision to the  
6 ~~[POC]~~[POC]~~[POB]~~[POB] within ten business days of receipt of the public record letter.

7 ~~[[Any person who has filed a citizen complaint with an allegation relating to~~  
8 ~~anything other than use of force and who is dissatisfied with the findings of~~  
9 ~~the RO may appeal that decision to the IAC within ten business days of receipt~~  
10 ~~of the public record letter. The POB or IAC shall hold a hearing on the appeal~~  
11 ~~and shall provide the complainant, if any, with a reasonable~~  
12 ~~opportunity minimum of ten (10) minutes to be heard.]- The. The POB or IAC~~  
13 ~~may subpoena documents (including Garrity material) and witnesses as~~  
14 ~~necessary, and hold any closed hearings as necessary to protect~~  
15 ~~confidentiality and as permitted under the New Mexico Open Meetings Act.~~

16 ~~For appeals of the IAC, T]he~~ ~~[POC]~~[POC]~~[POB]~~[POB] may ~~[upon appeal]~~ modify or change  
17 the findings and/or recommendations of the ~~[IRO]~~[IRO]~~[IAC]~~[IAC] and may make  
18 further recommendations to the Chief regarding the findings and/or  
19 recommendations and any discipline imposed by the Chief or proposed by the  
20 Chief. Within 20 days of receipt of the ~~[appellate]~~ decision of the ~~[POC]~~[POC]~~[POB]~~[POB],  
21 the Chief shall notify the ~~[POC]~~[POC]~~[POB]~~[POB] and the original citizen complainant of his  
22 ~~[or her final disciplinary]~~ decision in this matter in writing, by certified mail.

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

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1 whom the complaint was filed, the Chief of Police and the [IRORO] of the  
2 results of his [or her] review and any action [he has] taken.

3 § 9-4-1-10 REPORTS.

4 The [POCCPOA] shall be responsible for regularly informing the  
5 Mayor, the City Council, and the public by submitting quarterly reports that  
6 ~~contain~~ include but are not limited to the following ~~types of~~ information:

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

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

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

17 (D) Information on all public outreach initiatives undertaken by  
18 ~~either~~ the [POCPOB] or the [IRORO] such as speaking engagements, public  
19 safety announcements, and/or public information brochures on the oversight  
20 process;

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

24 (F) Identification of any matters that may necessitate the City  
25 Council's consideration of legislative amendments to this Police Oversight  
26 Ordinance; and

27 (G) The amount of time that the POB dedicated to the policy  
28 activities prescribed by section 9-4-1-4(C)(5) relative to its other activities over  
29 the past quarter].

30 § 9-4-1-11 EVALUATION.

31 Contingent upon funding, in the first six months of [2005 2016] and  
32 at least every four years thereafter, from adoption of §§ 9-4-1-1 through 9-4-1-  
33 14, the City Council shall issue a Request for Proposal for an independent

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1 consultant to undertake a complete evaluation and analysis of the entire  
2 Police Oversight Process, and recommend any necessary changes or  
3 amendments that would appropriately improve the process.

4 § 9-4-1-12 SPECIAL MEETINGS.

5 On the petition of 1,000 or more citizens in the City of Albuquerque  
6 filed in the Office of the City Clerk, the ~~[Commission~~ POB] shall hold a special  
7 meeting for the purpose of responding to the petition and hearing and  
8 inquiring into matters identified therein as the concern of the petitioners.

9 Copies of the petition shall be filed [with the POB] by ~~[the Commission with]~~  
10 the City Clerk. Notice of such meeting shall be given in the same manner as  
11 notice is given for other meetings of the ~~[Commission~~ POB] and shall comply  
12 with the State Open Meetings Law.

13 § 9-4-1-13 CONFIDENTIALITY.

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

26 § 9-4-1-14 MANDATORY COOPERATION AGREEMENT.

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

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1 the independent investigator, he or she may be subjected to termination or  
2 disciplinary action at the discretion of the Police Chief. Compelled statements  
3 given to the ~~[IRORO, CPOA staff]~~ or the designated independent investigator,  
4 by a police officer will be used only for the ~~[IRORO]~~'s investigation. The actual  
5 statement will remain confidential and will not be included in a final report or  
6 be forwarded to the ~~[POCPOB]~~. The ~~[IRORO]~~ may summarize conclusions  
7 reached from a compelled statement for the report to the ~~[POCPOB]~~ and the  
8 Chief, and in the public record letter to the complainant.

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

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

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

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