

## Monitor's 15th Report

# Compliance Levels of the Albuquerque Police Department and the City of Albuquerque with Requirements of the Court-Approved Settlement Agreement

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## **1.0 Introduction**

This Independent Monitor's Report (IMR) follows the same format as all previous reports. That format is organized into five sections:

- 1.0 Introduction;
- 2.0 Executive Summary;
- 3.0 Synopsis of Findings;
- 4.0 Compliance Findings; and
- 5.0 Summary.

The purpose of the monitor's periodic compliance reports is to inform the Court of the monitor's findings related to the progress made by APD in achieving compliance with the individual requirements of the CASA. This report covers the compliance efforts made by APD during the 15<sup>th</sup> reporting period, which covers August 2021 through January 2022.

## **2.0 Executive Summary**

Figure 2.1 below depicts APD's compliance levels throughout the fourteen reporting periods of the reform project. Several key interpretations can be made from these data that are indicative of APD's approach to the mandated reform project outlined by the CASA.

As Figure 2.1 indicates that, over the last 18 months, APD has made progress in its efforts to attain compliance with the specific requirements of the CASA, moving operational compliance to 70 percent, the highest level of compliance ever achieved by APD during the course of the monitor's reporting on the agency's compliance activities. Figure 2.1 also indicates that APD has achieved operational compliance increases during each of the last three reporting periods. This reflects an organized attention to CASA requirements over an 18-month period. The operational compliance findings by the monitor during the IMR-15 reporting period represent APD's most current efforts at compliance. Both IMR-14 and IMR-15, have shown increased compliance numbers over the previous reporting periods, indicating that APD has finally broken through the declining numbers shown for the IMR-11 through IMR-13 reporting periods.

### **Organizational Successes**

APD has shown strong performance with its compliance factors this reporting period, with continuing strong performances relating to effective policy development and a substantial increase in training effectiveness. Performance in the field continues to lag behind these two "policy and training" processes.

APD's improved performance this reporting period is attributable, in the monitor's opinion, to an influx of external management talent, particularly at the Training Academy. Secondary compliance, which measures training effectiveness, showed

a substantial increase this reporting period, with APD raising that measure of compliance to the highest level we have seen since the advent of the CASA reporting process. Fully 99 percent of the CASA's training requirements have been successfully met during the IMR-15 reporting period. This indicates truly exceptional compliance levels for APD training functions during this reporting period. We have long encouraged APD to focus on its training functions, and the training processes are a true standout among APD's compliance factors during the IMR-15 reporting period.

Further, operational compliance levels, the rate at which in-field performance is executed in a manner that complies with CASA requirements, have also shown improvement over the nadir seen in the IMR-13 reporting period. Operational compliance reached an all-time high during the IMR-15 reporting period, at 70 percent compliance.

### Critical Issues

While policy processes and training processes at APD were at the highest levels we have seen to date, operational compliance figures continue to lag the compliance levels for policy and training. APD currently stands at 70 percent compliance with the CASA requirements for actions in the field. In the monitor's experience, operational compliance factors routinely lag behind primary and secondary compliance factors. Once policy and training compliance have been achieved, effective and consistent supervision is needed to achieve full compliance. Supervision continues to be a significant problem with APD's compliance efforts. Further APD's disciplinary practices continue to show artifacts of disparate treatment, indicating that personnel at times receive dissimilar discipline instead of based on offense and prior history, which should be the touchstone of effective discipline.

As our 15th report describes, APD's major issues at this point in the monitoring process are supervision and command oversight, including such processes as supervisory efficiency in noting behaviors in the field that are non-compliant with policy and training. Changing non-compliance with CASA requirements in the field with notice and corrective behavior will be the next critical element of compliance that APD will need to assess, modify, and assert as an operational priority.

Finally, we suggest that APD develop a complete assessment of the current disciplinary system to ensure that similar infractions and past histories of various members of APD result in similar penalties. We see this as a key part of moving to a professional disciplinary system that is offense- and history-based.

### **3.0 Synopsis of Findings for the 15<sup>th</sup> Reporting Period**

As of the end of the IMR-15 reporting period, APD's compliance levels are as follows:

Primary Compliance	100%
Secondary Compliance	99% and
Operational Compliance	70%.

During the IMR-15 reporting period, APD has shown significant performance increases in training effectiveness, and performance in the field has improved somewhat. In the monitor's experience, training nearly always leads the way in organizational development and planned change processes. This has held true for APD's reform efforts as well.

As the data depicted in Figure 4.1.1 below indicate, APD has made significant and meaningful progress in its secondary compliance efforts, which have substantially increased their levels of compliance, from 82 percent in IMR-13 to 99 percent in IMR-15. Training practices at APD have shown exceptional improvement, and compliance in the field has been on an 18-month upward trajectory. Operational compliance with the CASA has also seen improvement during the 15<sup>th</sup> reporting period, increasing to 70 percent. The next significant hurdle for APD is to persistently self-monitor in-field operations to ensure that compliance in the field reflects the policy development and training that has been delivered and continues to be reflected in in-field actions. During the last three reporting periods, APD has seen steady, but gradual, increases in the delivery of CASA-compliant policing services. Data indicate that APD has gradually improved in-field service delivery from 59 percent compliance in IMR-13, to 62 percent in IMR-14, and to 70 percent in IMR-15.

#### **4.0 Current Compliance Assessments**

As part of the monitoring team's normal course of business, it established a baseline assessment of all paragraphs of the CASA for the Independent Monitor's first report (IMR-1)<sup>1</sup>. This was an attempt to provide the Parties with a snapshot of existing compliance levels and, more importantly, to provide the Parties with identification of issues confronting compliance as APD continues to work toward full compliance. As such, the baseline analysis was considered critical to future performance in APD's reform effort, as it gives a clear depiction of the issues standing between the APD and full compliance. This report, IMR-15, provides a similar assessment and establishes a picture of progress on APD goals and objectives since the last monitor's report.

#### **4.1 Overall Status Assessment**

Section 4.1 provides a discussion of the overall compliance status of APD as of the 15<sup>th</sup> reporting period. As of the end of the 15<sup>th</sup> reporting period, APD has achieved substantial increases in secondary compliance and has improved operational compliance by eight percentage points. Primary compliance relates mostly to the development and implementation of acceptable policies (conforming to national best practices). APD has shown a substantial increase in secondary compliance this reporting period, up from 82 percent compliance in IMR-14 to 99 percent compliance in IMR-15, which means that effective follow-up mechanisms have been taken to ensure

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<sup>1</sup> Available at [www.AbqMonitor.org/documents/Appendix](http://www.AbqMonitor.org/documents/Appendix), pp. 1-306.

that APD personnel understand the requirements of promulgated policies, e.g., training, supervising, coaching, and implementing disciplinary processes to ensure APD personnel understand and follow the policies as promulgated and are implementing them in the field. Operational compliance with the requirements of the CASA for the 15<sup>th</sup> reporting period are higher than they were for the 14<sup>th</sup> reporting period, from 62 percent in IMR-14 to 70 percent in IMR-15. This means that 70 percent of the time, field personnel either perform tasks as required by the CASA or that when they fail, management personnel note and correct in-field behavior that is not compliant with the requirements of the CASA.

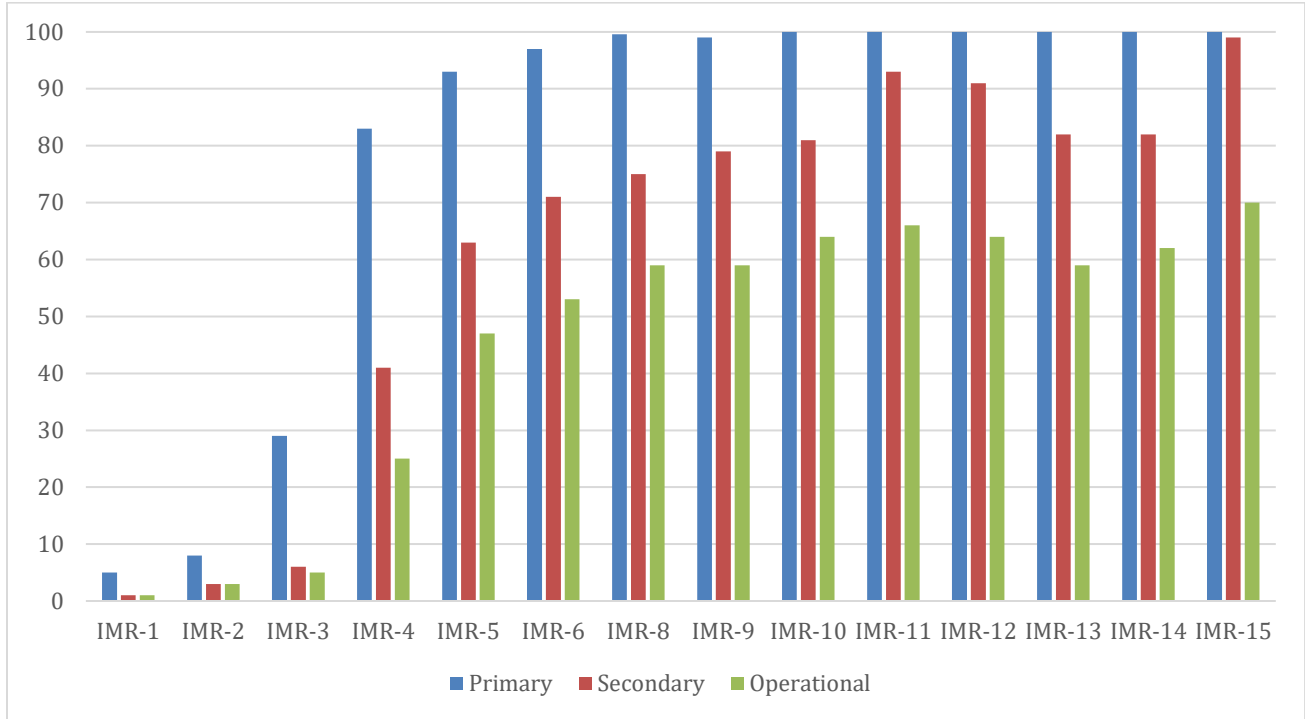
These compliance numbers are significant. They indicate a 20.7 percent increase in secondary compliance and a 12.9 percent increase in APD's supervisory and operational compliance over the previous reporting period, and indicate, perhaps for the first time, a serious management willingness at APD to identify and correct behavior that is not in compliance with the requirements of the CASA. These data are reflected in Figure 4.1.1 on the following page.

Figure 4.1.1 indicates that a significant number of CASA paragraphs were addressed by new training at APD during this reporting period. The training tempo has increased significantly, and the quality of training also increased markedly, as reflected in Figure 4.1.1, on the following page.

The weak points of APD's compliance efforts remain the same as they were in IMR-14: supervisors and mid-level command personnel continue to be the weak link when it comes to holding officers accountable for their in-field behavior. Until that issue is resolved, further increases in APD's compliance levels will be difficult to attain.

The following paragraphs of IMR-15 provide examples and context for the monitor's global findings noted in the previous paragraphs.

Figure 4.1.1: APD Compliance Levels, IMR-1 through IMR-15



## 4.2 Project Deliverables

Project deliverables of the CASA are defined by the Court-Approved Settlement Agreement. Each deliverable is discussed in detail in section 4.7 on the following page.

## 4.3 Format for Compliance Assessment

The Monitor’s Reports are organized to be congruent with the structure of the CASA, and specifically report, in each section, on the City’s and APD’s compliance levels as well as CASA requirements for the CPOA, for each of the 276 individual requirements of the CASA.

The Monitor’s Reports are structured into nine major sections, following the structure of the Agreement:

- I. Use of Force;
- II. Specialized Units;
- III. Crisis Intervention;
- IV. Policies and Training;
- V. Misconduct Complaint Intake, Investigation, and Adjudication;

- VI. Staffing, Management, and Supervision;
- VII. Recruitment, Selection, and Promotions;
- VIII. Officer Assistance and Support; and
- IX. Community Engagement and Oversight;

All monitor's reports deal with each of these nine major areas, in turn, beginning with APD's response and performance regarding reporting, supervising, and managing its officers' use of force during the performance of their duties, and ending with APD's efforts at community engagement and its ability to facilitate community oversight of its policing efforts.

#### **4.4 Structure of the Monitoring Assessment Process**

Members of the monitoring team have collected data concerning APD's compliance levels in several ways: through on-site observation, review, and data retrieval; through off-site review of more complex items, such as policies, procedures, testing results, etc.; and through review of documentation provided by APD or the City which constituted documents prepared contemporaneously during the normal daily course of business. While the monitoring team did collect information provided directly by APD in response to the requirements of the CASA, those data were never used as a sole source of determining compliance but were instead used by the monitoring team as an explanation or clarification of process. All data collected by the monitoring team were one of two types:

- Data that were collected by using a structured random sampling process; or
- Selecting *all* available records of a given source for the "effective dates."

Under no circumstances were data selected by the monitoring team based on provision of records of preference by personnel from the City or APD. In every instance of selection of random samples, APD personnel were provided lists of specific items, date ranges, and other specific selection rules, or the samples were drawn on-site by the Monitor or his staff. The same process will be adhered to for all following reports until the final report is written.

#### **4.5 Operational Definition of Compliance**

For the purposes of the APD monitoring process, "compliance" consists of three parts: primary, secondary, and operational. These compliance levels are described below.

- **Primary Compliance:** Primary compliance is the "policy" part of compliance. To attain primary compliance, APD must have in place



operational policies and procedures designed to guide officers, supervisors, and managers in the performance of the tasks outlined in the CASA. As a matter of course, the policies must be reflective of the requirements of the CASA, must comply with national standards for effective policing policy, and must demonstrate trainable and evaluable policy components.

- **Secondary Compliance:** Secondary compliance is attained by providing acceptable training related to supervisory, managerial, and executive practices designed to (and effective in) implementing the policy as written, e.g., sergeants routinely enforce the policies among field personnel and are held accountable by managerial and executive levels of the department for doing so. By definition, there should be operational artifacts such as reports, disciplinary records, remands to retraining, follow-up, and even revisions to policies if necessary, indicating that the policies developed in the first stage of compliance are known to, followed by, and important to supervisory and managerial levels of the department.
- **Operational Compliance:** Operational compliance is attained at the point that the adherence to policies is apparent in the day-to-day operation of the agency, e.g., line personnel are routinely held accountable for compliance, not by the monitoring staff, but by their sergeants, and sergeants are routinely held accountable for compliance by their lieutenants and command staff. In other words, the APD “owns” and enforces its policies.

## 4.6 Operational Assessment

APD and the City (including the CPOA and CPOA Board) have agreed to comply with each of the articulated elements of the CASA. The monitoring team provided the Parties with copies of the team’s monitoring methodology (a 299-page document), asking for comment. That document was then revised based on comments by the Parties. This document reflects the monitor’s decisions relative to the Parties’ comments and suggestions on the proposed methodology and is congruent with the final methodology included in Appendix One of the monitor’s first report<sup>2</sup>. The first operational paragraph, under this rubric, is paragraph 14, as paragraph 13 is subsumed under paragraph 14’s requirements.

### 4.6.1 Methodology

The Monitor assessed the City and APD’s compliance efforts during the 15<sup>th</sup> reporting period, using the *Monitor’s Manual*, included as Appendix A in the monitor’s first report (see footnote 2 for a link to that methodology). We do note that the original methodology was revised at times based on the availability of records (or lack thereof)

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<sup>2</sup> Available at: <https://www.justice.gov/usao-nm/file/796891/download>

and related organizational processes. The manual identifies each task required by the CASA and stipulates the methodology used to assess compliance.

#### **4.7 Assessing Compliance with Individual Tasks**

APD's compliance with individual tasks for the 15<sup>th</sup> reporting is described in the sections that follow.

##### **4.7.1-4.7.3 Assessing Compliance with Paragraphs 14-16**

As we have documented in past monitor reports, APD reworked its use of force policies to integrate a three-tiered reporting system approved by the Monitor and the Parties and implemented on January 11, 2020. The new use of force system was conceptualized and implemented by APD, along with a four-tiered training regimen of those policies. Over the past several years, the monitoring team and the Department of Justice (DOJ) provided exhaustive feedback and technical assistance to help APD to make their system successful. The past several monitor reports have detailed the difficulties APD has had in the areas of force training and investigations, so we will not repeat them here. During this monitoring period, significant advances have occurred, chiefly attributable to APD providing resources to CASA-centric units and leveraging the experience of people from outside the organization.<sup>3</sup>

CASA requirements stipulate that the use and investigation of force shall comply with applicable laws and comport to best practices. Central to these investigations shall be an assessment of each involved officer's conduct to determine if the conduct was legally justified and compliant with APD policy. Field supervisors make initial assessments and classifications to determine the appropriate type of response to instances where officers use force; the Internal Affairs Force Division's (IAFD's) role is codified, and they respond for investigatory responsibilities associated with all Levels 2 and 3 uses of force.<sup>4</sup>

Following recurring issues with APD's ability to properly investigate uses of force, particularly within IAFD<sup>5</sup>, the DOJ interceded and conceptually proposed the use of an external team of law enforcement subject matter experts to oversee, teach and mentor IAFD. That concept was further developed among the parties. In February 2021, the City of Albuquerque and DOJ entered into a Stipulated Agreement to implement an External Force Investigation Team (EFIT) that commenced operations on July 16, 2021, shortly before the close of the IMR-14 monitoring period. EFIT has an Administrator, Deputy Administrator, and Lead Investigator to oversee all EFIT operations and three teams of investigators that work together with IAFD on a rotating basis. The EFIT investigators are involved

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<sup>3</sup> Specifically, the use of an External Force Investigation Team (EFIT) and new hires to the academy.

<sup>4</sup> Since compliance with this series of paragraphs is intrinsically connected to CASA paragraphs later in this report, relevant information has been brought forward and addressed here as well.

<sup>5</sup> For details we refer readers to each IMR through IMR-14.

from the initial response to Level 2 and Level 3 uses of force. EFIT takes part in interviews of officers and witnesses and provides instruction during the completion of reports. All investigations are overseen and tracked by EFIT and ultimately reviewed and approved by EFIT leadership.<sup>6</sup>

EFIT created a method for evaluating IAFD investigators<sup>7</sup>, and a Process Narrative for all IAFD investigations to follow. Where necessary, EFIT has the authority to assume investigative responsibility over a use of force case. Though not required by the Stipulated Order, EFIT has submitted two (2) Quarterly Reports to the Court that discuss successes and areas of concern related to their engagement with APD. The monitoring team has met regularly with the EFIT Administrator and Deputy Administrator throughout this monitoring period to provide feedback on investigations completed under EFIT's supervision, to provide technical assistance when requested, and to share our historical perspective, so EFIT is equipped to help APD succeed. Likewise, members of the monitoring team take part in weekly meetings between IAFD, EFIT, the Office of the City Attorney, and DOJ, to gain additional insight into IAFD operations.

The monitoring team believes that the combination of these outreach efforts has had a noticeable positive impact on use of force investigations during this monitoring period. This process is discussed more thoroughly later in this monitoring report.<sup>8</sup> In particular, the impact EFIT has had on the quality and timeliness of use of force investigations at APD is incontrovertible. Likewise, EFIT provides a legitimate layer of supervision by providing guidance for IAFD supervisor and command level decisions, and by putting processes into place that benefit IAFD operations. APD and the City have made a significant investment in EFIT. The result has demonstrated that the terms of the CASA can be achieved with investigative effort and close oversight by supervisors and commanders. As we note later in this report, the monitoring team reviewed a random sample of cases submitted by IAFD during this monitoring period. The quality of the writing and the accuracy of the investigative findings are a marked improvement over past monitoring periods.<sup>9</sup> The additional benefit is that the Force Review Board (FRB) has better confidence in cases it is reviewing, and the findings investigators make. Consequently, FRB members can move more quickly during their case reviews, and meetings are more streamlined.

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<sup>6</sup> In four (4) instances EFIT disagreed with the initial findings of cases approved by IAFD Commanders. Additional deliberations with EFIT occurred and EFIT provided IAFD their perspective on what they believed the appropriate findings should be. In each case IAFD modified their findings.

<sup>7</sup> At the close of IMR-15, based on the evaluation metrics set by EFIT, IAFD detectives and civilian investigators were beginning to be released to conduct interviews without an EFIT investigator present in the room. However, there are steps IAFD detectives and investigators must work through first before being released to conduct investigations completely independent of EFIT's direct oversight.

<sup>8</sup> Detailed comments on the quality of investigations are found in Paragraphs 41-77.

<sup>9</sup> In most cases internal affairs referrals were made by IAFD for misconduct, again a marked improvement from prior monitoring periods.

However, optimism should be tempered by recognition of administrative and cultural obstacles that persist. Eventually, EFIT will pass oversight responsibilities back to APD, which will test APD's ability to sustain the obvious progress made with day-to-day external oversight. Our perspective is formed by our professional experience, experience with APD over the past several years, and feedback we receive from EFIT during our regular interactions. The monitoring team has shared areas APD should focus its attention on in the coming months. The following observations are not meant to be all-encompassing, but instead, we call attention to these key areas since we believe they must be addressed for long term sustainability:

1. Staffing IAFD and sustaining the core competencies of investigators will be a challenge for APD. Aside from CASA compliance, protecting the interests of the public and officers, following a use of force requires APD to maintain a cadre of qualified and experienced investigators. Arguably, there are few more sensitive types of investigations APD will be required to conduct than a use of force investigation. Because of collective bargaining agreement (CBA) requirements, APD's managerial prerogative to move officers at various ranks to, or keep them in, IAFD is impeded.<sup>10</sup> APD has taken to hiring civilian investigators ostensibly to accommodate CBA inhibitors. The onboarding of new investigators into IAFD, whether sworn or civilian, is time-consuming, and building in-field competencies takes time. Developing detective and investigator competencies require the support of commanders and time to accumulate personal experiences dealing with officers and the complexity some cases bring. In the long-term, stabilizing turnover in IAFD's supervisory ranks and investigative staff will be a key factor for success.
2. Timeliness of use of force investigations has increased significantly. Investigations are meeting the terms of the EFIT Stipulated Order<sup>11</sup>, but the average time to complete those investigations has remained steady at approximately 88 days throughout this monitoring period. Investigators carry only four cases at a time, so the average length of time is extreme since many cases are not complicated. We have expressed to APD numerous times that an average of 88 days to complete cases, especially under EFIT's supervision, creates too narrow a margin for error. In short, the average time to complete force investigations must drop significantly to be sustainable in the future.
3. The process narrative was developed by APD and EFIT and approved by DOJ and the monitor as required by the EFIT stipulated order, in order to establish standards and a system by which all use of force investigations will follow. The process narrative is the foundation upon which

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<sup>10</sup> For the past two years the monitoring team has shared this fact directly with APD executive staff and members of the City Attorney's Office.

<sup>11</sup> Investigations into uses of force must be completed within 90 days.

sustainability of conducting quality force investigations will be built after EFIT is completed with its work at APD.<sup>12</sup> Each step in the process narrative can be easily achieved with attention to detail, a commitment by investigators, and proper supervision. At the close of this monitoring period, IAFD failed to follow the Process Narrative 34 percent of the time, and at the time of the writing of this report, the failure rate for IAFD was 42.9%.<sup>13</sup> APD needs to significantly improve its success rates, as these rates are the best indicator of IAFD's own supervisory capabilities. Additionally, these failure rates can be viewed as a predictor of IAFD's ability (or inability) to self-sustain current CASA compliance rates after EFIT is no longer internally monitoring IAFD's quality of work.

4. EFIT has expressed that basic supervision and command-level oversight needs to improve. Also, a general lack of urgency to complete tasks and implement measures that will benefit IAFD is still prevalent. This observation is similar to what the monitoring team has experienced. EFIT's presence creates a (temporary) environment of stringent accountability that IAFD must embrace if it is to be successful in the future. APD must ensure that strict accountability to timelines and standards for quality are not a feature that exists only while EFIT is present.

IAFD has made significant progress during this monitoring period that must be acknowledged. For that reason, we highly recommend that APD's executive staff expend significant energy on these core areas in the coming monitoring periods.

#### **4.7.1 Assessing Compliance with Paragraph 14**

Paragraph 14 stipulates:

**"Use of force by APD officers, regardless of the type of force, tactics, or weapon used, shall abide by the following requirements:**

- a) **Officers shall use advisements, warnings, and verbal persuasion, when possible, before resorting to force;**
- b) **Force shall be de-escalated immediately as resistance decreases;**
- c) **Officers shall allow individuals time to submit to arrest before force is used whenever possible;**
- d) **APD shall explicitly prohibit neck holds, except where lethal force is authorized;**
- e) **APD shall explicitly prohibit using leg sweeps, arm-bar takedowns, or prone restraints, except as objectively reasonable to prevent imminent bodily harm to the officer or another person or persons; to overcome**

<sup>12</sup> IAFD's current commander has expressed to the monitoring team that the Process Narrative will remain after the EFIT project ends.

<sup>13</sup> Information taken from the EFIT weekly reports dated January 29, 2022, and March 19, 2022.

- active resistance; or as objectively reasonable where physical removal is necessary to overcome passive resistance and handcuff the subject;**
- f) APD shall explicitly prohibit using force against persons in handcuffs, except as objectively reasonable to prevent imminent bodily harm to the officer or another person or persons; to overcome active resistance; or as objectively reasonable where physical removal is necessary to overcome passive resistance;**
  - g) Officers shall not use force to attempt to effect compliance with a command that is unlawful;**
  - h) pointing a firearm at a person shall be reported as a Level 1 Use of Force, and shall be done only as objectively reasonable to accomplish a lawful police objective; and**
  - l) immediately following a use of force, officers, and, upon arrival, a supervisor, shall inspect and observe subjects of force for injury or complaints of pain resulting from the use of force and immediately obtain any necessary medical care. This may require an officer to provide emergency first aid until professional medical care providers arrive on scene.”**

## **Methodology**

In assessing compliance with Paragraph 14 the monitoring team reviewed data from several areas of APD, including Training Academy records and a random sample of Level 1, 2, and 3 use of force cases prepared by supervisors in the field and IAFD.

In IMR-13, APD lost secondary compliance with Paragraph 14 due to its failure to complete certain training tasks in Paragraphs 86-88. The monitoring team worked with APD's Academy to move training requirements in a positive direction, reviewing several course curricula during the monitoring period. APD had two pending training requirements to address for this monitoring period for Paragraphs 86 and 87, specifically the delivery of the annual 24 hours of use of force training and completion of the two Tier 4 training sessions ((Reality-Based Training (RBT)) and Tier 4, Mechanics of Arrest, Restraint, and Control (MARC) RBT and MARC) that we discussed in IMR-14 (and before). The monitoring team assessed that Tier 4 addressed several of the annual training requirements as well, so where appropriate, APD received recognition for both. As we document in Paragraphs 86-88, APD completed its compliance requirements for Paragraphs 86-87, which consequently brought Paragraph 14 back into secondary compliance.

APD supervisory and command personnel still struggle to complete their reviews of Level 1 use of force investigations within the allotted 30-day time period.<sup>14</sup> In

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<sup>14</sup> Pursuant to SOP 2-57, supervisors must complete and document a supervisory use of force review of a Level 1 use of force within 72 hours after the supervisor leaves the scene of the use of force incident (and upon a commander's approval, supervisors may receive a seven-day extension). The lieutenant in the involved officer's chain of command has ten calendar days from receiving the supervisor's review to

IMR-12, IMR-13, and IMR-14, there were several cases in each reporting period that took more than 60 days to complete. In fact, in IMR-14, there were ten cases exceeding 100 days (six of which exceeded 150 days). On a positive note, in IMR-15, only one of the 51 completed cases<sup>15</sup> exceeded 60 days. On a less than positive note, a few Level 1 Use of Force cases that were completed during IMR-15 (but actually occurred prior to IMR-15) exceeded 60 days. However, no case completed during IMR-15 exceeded 100 days.

As noted, APD completed its field review of 51 of its 79 Level 1 use of force cases during this monitoring period. On a positive note, forty-six of these 51 cases were completed within 30 days, and only one of those cases exceeded 60 days. However, this 58 percent completion rate (46 of the 79 cases) is still a long way from the CASA-required 95 percent completion rate. It is important to note that, based on data APD provided to the monitoring team as of mid-February 2022, APD did not complete any Level 1 use of force cases between December 21, 2021, and the end of the monitoring period (January 31, 2022). While it is important to note that APD is currently developing a proposal to change the way it handles Level 1 use of force cases, no documentation provided to the monitoring team accounts for this failure to complete Level 1 cases during the timeframe noted. By way of impact, no Level 1 case initiated after November 23, 2021, was completed by January 31, 2022.

Timeliness continues to plague APD on several fronts beyond just the deadline to complete supervisory use of force investigations. As we have discussed exhaustively in previous reports, the genesis of this problem is now immaterial to the outcomes of such failures to complete the reviews. The timeliness and effectiveness of implementing corrective measures and identifying/remediating problematic behavior must be improved. APD needs to identify what specific patterns or people are preventing them from achieving consistency in their efforts and outcomes in this area of CASA compliance and take prompt, appropriate action to ensure compliance does not remain out of reach.

As we noted earlier, the monitoring team reported in IMR-14 that APD had been working with an external vendor who would temporarily supervise an External Force Investigation Team (EFIT) to assist APD in conducting Level 2 and Level 3 force investigations involving APD personnel. The monitoring team met with and worked closely with members of the EFIT executive team during their onboarding. While Paragraphs 24-36 and 60-77 will critically examine a random sample of cases investigated by IAFD/EFIT during this monitoring period, the monitoring team takes cognizance of the monumental progress (in both punctuality and

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complete a review of a Level 1 use of force. The commander in the involved officer's chain of command has ten calendar days from receiving the lieutenant's review to complete the review of the Level 1 use of force. Thus, the maximum amount of time a Command has to complete a supervisory review is 30 days (assuming a seven-day extension was granted to the supervisor conducting the initial review).

<sup>15</sup> The 51 cases noted here are cases that involve a use of force that occurred during IMR-15 and the cases were completed during IMR-15.

quality) achieved during this monitoring period in investigating and managing Level 2 and Level 3 use of force cases.

During IMR-15 (data current through early February 2022), APD recorded a combined 212 Level 2 and Level 3 use of force cases (compared to 307 Level 2 and Level 3 use of force cases during IMR-14, 298 Level 2 and Level 3 use of force cases during IMR-13, and 311 Level 2 and Level 3 cases during IMR-12). Of these 212 cases initiated during this monitoring period, APD recorded 169 Level 2 cases and 43 Level 3 cases. For comparison purposes, of the 307 cases during IMR-14, APD recorded 216 Level 2 cases and 91 Level 3 cases. In IMR-13, the 298 cases were comprised of 244 Level 2 cases and 54 Level 3 cases. The 311 cases APD recorded during IMR-12 were comprised of 232 Level 2 cases and 79 Level 3 cases.

One of the CASA implementation requirements to reach an operational compliance consideration is that 95 percent of the use of force cases must be completed within 90 days. While APD has always struggled to complete cases within 90 days, the past two monitoring periods were worse than usual.

During this monitoring period, however, APD reversed its previous trend in completing Level 2 and 3 use of force cases. IAFD, working alongside the EFIT, completed 101 Level 2 cases with 101 of the cases being completed within 90 days. This equates to 100 percent of the completed cases being completed within 90 days. At the close of the monitoring period (January 31, 2022), there were still 68 cases that were opened during the monitoring period that had not been completed.

The same essentially holds true for Level 3 use of force cases. During this monitoring period, APD completed 30 Level 3 cases with all 30 of the cases being completed within 90 days. This equates to 100 percent of the completed cases completed within 90 days. At the close of the monitoring period, there were still 13 cases that were opened during the monitoring period that had not been completed. However, these 13 active cases had not yet reached the 90-day threshold. These cases will be examined during the IMR-16 reporting period.

The monitoring team continued to see strong attendance and engagement by the Force Review Board (FRB) members during this monitoring period. As we document later, the use of force cases presented of late have been those that occurred since the External Force Investigation Team (EFIT) began assisting and overseeing IAFD's activities in July 2021, which has had an impact on the FRB. The good quality of discussions in FRB meetings has been noted in past monitor's reports, which remained stable during this monitoring period. We did note that the degree of discussion has changed, meaning there is a more limited amount of time spent addressing misconduct and investigative failures, which allows for a more efficient movement through meeting agendas. We attribute this principally to higher levels of confidence the FRB has in findings made by IAFD since EFIT now assists with and supervises the cases.



The monitoring team remains committed to continuing its technical assistance to help guide APD toward success. For this reporting period, APD reestablished secondary compliance with Paragraph 14. The greatest threat to maintaining secondary compliance is the academy's ability to refine its efforts for 2022 since the annual training requirements related to Paragraph 14 are pending. In short, there is no finish line to reach their responsibilities, and one training program will inform needs for the future, along with needs gleaned from the field. Overlaid on this threat is the fact that the organization is drafting revisions to some aspects of its use of force policy suite. In addition, APD is attempting to "pilot" a Level 1 use of force program for the Field Services Bureau that will allow APD to replace the work currently done by Field Services Bureau personnel at Area Commands. APD will need to eventually take investigatory responsibilities for Levels 2 and 3 uses of force. Lessons learned and issues APD uncovers throughout these different initiatives will undoubtedly influence policies, which will in turn require training. The academy should provision for all these moving parts to ensure they do not put APD in a position to lose secondary compliance with Paragraph 14.<sup>16</sup>

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **Not In Compliance**

***Recommendation 4.7.1: APD should take care to provide systems oversight relating to use of force and training development process, in order to ensure that processes related to training development regarding use of force are clear, focused, and effective, including the actions noted below. These should include:***

- a. Using failure points related to use of force by line personnel, develop a clear training outline using the process that is standard practice;***
- b. Establish goals for use of force training that directly address common problems and issues noted in the monitor's reports and in APD's internal oversight practices;***
- c. Ensure lesson plan outlines for use of force training are reviewed by training command staff, APD use of force SMEs, and the monitoring team to ensure lesson plans address the current use of force issues identified by the monitoring team, and APD executive and command staff; and***
- d. After implementing the use of force training, evaluate in-field performance to determine if training is being implemented.***

#### **4.7.2 Assessing Compliance with Paragraph 15: Use of Force Policy Requirements**

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<sup>16</sup> We made this same cautionary note in a prior Monitor report, nonetheless APD lost secondary compliance.

Paragraph 15 stipulates:

**“APD shall develop and implement an overarching agency-wide use of force policy that complies with applicable law and comports with best practices. The use of force policy shall include all force techniques, technologies, and weapons, both lethal and less lethal, that are available to APD officers, including authorized weapons, and weapons that are made available only to specialized units. The use of force policy shall clearly define and describe each force option and the factors officers should consider in determining which use of such force is appropriate. The use of force policy will incorporate the use of force principles and factors articulated above and shall specify that the use of unreasonable force will subject officers to discipline, possible criminal prosecution, and/or civil liability.”**

## **Results**

As we document in Paragraphs 86-88, APD completed its compliance requirements for Paragraphs 86-87, which consequently brought Paragraph 15 back into secondary compliance.

The monitoring team remains committed to continuing its technical assistance to help guide APD toward success. The greatest threat to retaining secondary compliance with Paragraph 15 is the academy’s ability to reload its efforts for 2022 since the training requirements they have related to Paragraph 15 are annual requirements. In short, there is no finish line to reach in their training responsibilities, and one training program will inform needs for the future, along with needs gleaned from the field. Overlaid on this threat is the fact that the organization is drafting revisions to aspects of its use of force policy suite and is attempting to “pilot” a Level 1 use of force program for the Field Services Bureau. The External Force Investigation Team (EFIT) will eventually turn investigatory responsibilities for Levels 2 and 3 uses of force back to IAFD. The academy must provision for all these moving parts to ensure they do not put APD in a position to lose secondary compliance with Paragraph 15.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### **4.7.3 Assessing Compliance with Paragraph 16: Weapons Protocols**

Paragraph 16 stipulates:

**“In addition to the overarching use of force policy, APD agrees to develop and implement protocols for each weapon, tactic, or use of force authorized by APD, including procedures for each**

**of the types of force addressed below. The specific use of force protocols shall be consistent with the use of force principles in Paragraph 14 and the overarching use of force policy.”**

As we document in Paragraphs 86-88, APD completed its compliance requirements for Paragraphs 86-87, which consequently brought Paragraph 16 back into secondary compliance.

The monitoring team remains committed to continuing its technical assistance to help guide APD toward success. The greatest threat to retaining secondary compliance with Paragraph 16 is the academy’s ability to reload its efforts for 2022 since the training requirements they have related to Paragraph 16 are annual. In short, there is no finish line to reach in their responsibilities, and one training program will inform needs for the future, along with needs gleaned from the field. Overlaid on this threat is the fact that the organization is drafting revisions to aspects of its use of force policy suite and APD is attempting to “pilot” a Level 1 use of force program for the Field Services Bureau and the External Force Investigation Team (EFIT) will eventually turn investigatory responsibilities for Levels 2 and 3 uses of force back to IAFD. The academy must provision for all these moving parts to ensure they do not put APD in a position to lose secondary compliance with Paragraph 16.

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### **4.7.4 – 4.7.10 Assessing Compliance with Paragraphs 17 - 20**

The 2021 Firearms Training cycle was completed during the previous reporting period. APD provided course-of-business (COB) documentation that 98.1 percent of sworn personnel (897 of 914) and 100 percent of active-duty personnel completed firearms qualification and 100 percent of active personnel. As officers on various forms of leave return (currently 17 individuals), they are first assigned to the Training Academy for firearms qualification and any other training updates as required.

APD Firearms staff have addressed the monitor’s prior recommendations regarding CASA Firearm requirements, problems, issues, and solutions. Policy revisions, training revisions, additional training, and certifications for range staff and line supervisors have been documented. Most notable is the fact that APD has initiated a process in which the area command lieutenants will conduct random monthly personnel inspections, serving as a second-level review verifying an officer’s weapons and ammunition are authorized department issues. While visiting each area command during this monitoring period, sergeants were asked if the lieutenants were conducting these checks. All sergeants answered in the affirmative, explaining that the lieutenant conducts two inspections per squad per month (except in one location where the

lieutenant checked all officers). Records we reviewed supported this contention.

The APD Training Academy discontinued the Enterprise Learning Management system (ELM) to capture data regarding remedial firearms qualifications and has replaced it by utilizing academy personnel to analyze and summarize data to make policy and training decisions based on data captured. APD plans to establish a process to document practice sessions, track employees, and document their improvement plans. A full-time Service Aid has been added to range staff to collect data and other administrative functions at the range.

Based on the completed requirement for annual training, APD remains in operational compliance for these paragraphs.

#### **4.7.4 Assessing Compliance with Paragraphs 17**

Paragraph 17 stipulates:

**“Officers shall carry only those weapons that have been authorized by the Department. Modifications or additions to weapons shall only be performed by the Department’s Armorer, as approved by the Chief. APD use of force policies shall include training and certification requirements that each officer must meet before being permitted to carry and use authorized weapons.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.5 Assessing Compliance with Paragraph 18: On-duty Weapons**

Paragraph 18 stipulates:

**“Officers shall carry or use only agency-approved firearms and ammunition while on duty.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.5--4.7.6 Assessing Compliance with Paragraph 19: On Duty Weapons**

Paragraph 19 stipulates:

**“APD issued Special Order 14-32 requiring all officers to carry a Department- issued handgun while on duty. APD shall revise its force policies and protocols to reflect this requirement and shall implement a plan that provides: (a) a timetable for implementation; (b) sufficient training courses to allow officers to gain proficiency and meet qualification requirements within a specified period; and (c) protocols to track and control the inventory and issuance of handguns.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.7 Assessing Compliance with Paragraph 20: Weapons Qualifications**

Paragraph 20 stipulates:

**“Officers shall be required to successfully qualify with each firearm that they are authorized to use or carry on-duty at least once each year. Officers who fail to qualify on their primary weapon system shall complete immediate remedial training. Those officers who still fail to qualify after remedial training shall immediately relinquish APD-issued firearms on which they failed to qualify. Those officers who still fail to qualify within a reasonable time shall immediately be placed in an administrative assignment and will be subject to administrative and/or disciplinary action, up to and including termination of employment.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.8 Assessing Compliance with Paragraph 21: Firearms Training**

Paragraph 21 stipulates:

**“APD training shall continue to require and instruct proper techniques for un-holstering, drawing, or exhibiting a firearm.”**

## **Methodology**

As we document in Paragraphs 86-87 of this monitor’s report, APD made substantial progress throughout 2021 including the IMR-15 monitoring period, to

complete its Tier 4 and 2021 annual use of force requirements, thus achieving elevated compliance levels with those paragraphs. Supervisory training requirements associated with Paragraph 88 remain incomplete for this monitoring period. The factors that led to APD losing operational compliance with Paragraph 21 are discussed extensively in IMR-13, so they will not be repeated here.

The significance of Paragraph 21 has been demonstrated on many occasions in the past, as reviews of use of force cases related to the techniques used with displaying a firearm have shown deficiencies in the oversight and accountability process, and application of policy has been inconsistent at times. Our case reviews (documented in Paragraphs 41-59 and 60-77) revealed improved performance by officers in the field, and an increase in quality of force investigations, yet there are still areas that need augmentation when developing training relevant to this paragraph. We suggest that APD consider these areas when finalizing training throughout the remainder of 2022, since we believe these items are important to sustain operational compliance.

## Results

During the IMR-15 reporting period, the monitoring team worked with APD as they developed training and worked to address their use of force training requirements. APD completed Tier 4 training and 2021 Annual Use of Force training requirements as documented in Paragraphs 86-87. The combined completion of these two tasks resulted in APD reestablishing operational compliance with Paragraph 21. APD also completed its 2021 Firearms Qualification training and prepared a Close Out Memo that was reviewed by the monitoring team, along with ninety-three remedial training forms.<sup>17</sup> The Close Out memo documented that 98.42 percent of active and available APD personnel attended the firearms qualification for 2021.

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

### 4.7.9 Assessing Compliance with Paragraph 22: Firearm Discharges from Moving Vehicles

Paragraph 22 stipulates:

**“APD shall adopt a policy that prohibits officers from discharging a firearm from a moving vehicle or at a**

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<sup>17</sup> This was documented first in IMR-14. The remedial training sessions related to failing scores at the shooting range. We noted that instructors documented the Harries Technique (with a handheld flashlight) as possibly being a contributing factor with some night qualification failures. Our feedback to APD regarding officers using weapon mounted lights as flashlights, instead of their hand-held lights, is designed to cast attention on the risk of potential unintended discharges of weapons.

**moving vehicle, including shooting to disable a moving vehicle, unless an occupant of the vehicle is using lethal force, other than the vehicle itself, against the officer or another person, and such action is necessary for self-defense, defense of other officers, or to protect another person. Officers shall not intentionally place themselves in the path of, or reach inside, a moving vehicle.”**

## Results

Although use of force incidents related to Paragraph 22 are rare, we highly encourage APD to regularly assess its policies and training to ensure they keep up to date with legal standards and best practices. The Tier 4 Reality-Based Training (RBT) training that APD delivered during this monitoring period (detailed later in Paragraphs 86-88) contained a high-risk motor vehicle stop scenario. The inclusion of this scenario was relevant because of the rarity of these types of cases, and their elevated degree of risk. That said, there are nuances to the types of events implicated by the requirements of Paragraph 22 that were not included in the scenario. Therefore, we note that it is critical that all future use of force training programs include components that reinforce the CASA and policy requirements related to weapons discharges and officer interactions with suspects in vehicles.<sup>18</sup>

As we noted in the past four reporting periods, since the type of use of force events that are implicated by this paragraph are infrequent, our ability to measure operational compliance through case reviews will be sporadic. During the IMR-15 monitoring period, we worked with APD as they developed curriculum to address their use of force training requirements. APD completed Tier 4 training and 2021 Annual Use of Force training requirements as documented in Paragraphs 86-87. The combined completion of these two tasks resulted in APD reestablishing secondary compliance with Paragraph 22. APD also completed its 2021 Firearms Qualification training and prepared a Close Out Memo that was reviewed by the monitoring team for IMR-14, along with ninety-three remedial training forms.<sup>19</sup>

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<sup>18</sup> Scenarios involving vehicles should challenge officer decision making to ensure they understand their policy responsibilities as they pertain to Paragraph 22. In particular, the provision “Officers shall not intentionally place themselves in the path of, or reach inside, a moving vehicle.” Since the direction of a scenario is primarily driven by the actors in the scenario, a thoughtful approach by RBT trainers can test officers’ decision making. For instance, consider scenarios where (1) The suspect is wanted for a violent felony, is ordered from the vehicle but quickly reenters the vehicle to escape; (2) Officers approach a vehicle and during the conversation discover the person is armed with a firearm; (3) the suspect initially starts to exit the vehicle but then reenters the vehicle, or (4) Instead of using a motor vehicle stop, placing the suspect vehicle stationary and in an area that makes the approach difficult for officers (i.e. a parking area where officers must consider their approach so as to not place themselves in the path of the vehicle should it attempt to escape).

<sup>19</sup> This was first reported in IMR-14. The remedial training sessions involved officers’ failing scores at the shooting range. We noted that instructors documented the Harries Technique (with a handheld flashlight) as possibly being a contributing factor with some night qualification failures. Our feedback to APD regarding officers using weapon mounted lights as flashlights, instead of their hand-held lights, is designed to call attention on the risk of potential unintended discharges of weapons.

The Close Out memo documented that 98.42 percent of active and available APD personnel attended the firearms qualification for 2021. The monitoring team reviewed attendance records and an updated Closeout Memo, dated January 24, 2022, that documented 100 percent of active and available APD officers successfully completed their 2021 firearms qualification requirements. A total of 91 officers required remedial training by the academy prior to being achieving their qualification credit. During the 15th reporting period, we noted no instances of officers discharging their weapons at or from moving vehicles.

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

#### **4.7.10 Assessing Compliance with Paragraph 23: Tracking Firearm Discharges**

Paragraph 23 stipulates:

**“APD shall track all critical firearm discharges. APD shall include all critical firearm discharges and discharges at animals in its Early Intervention System and document such discharges in its use of force annual report.”**

#### **Methodology**

During past monitoring period, APD published its final Annual Use of Force Report inclusive of the years 2016-2019. The aggregation of year-over-year data gave the department a better context for the information they are assembling. During the IMR-14 reporting period, APD published a Preliminary Annual Use of Force Report inclusive of 2016-2020 data. As outlined in IMR-14, APD accumulated a large backlog of use of force investigations dating back to January 2020. Because of that failing, APD submitted its 2020 Annual Use of Force Report as “preliminary” since data may change as the backlogged use of force cases are subjected to investigations and chain of command oversight. Parenthetically, the scope of work for the External Force Investigation Team (EFIT) was expanded following the close of this monitoring period to include them investigating all backlogged use of force cases. Based on past experience with this project, and our observations of the work product delivered by EFIT, we expect that the statistics in the preliminary Annual Use of Force Report will change. The monitoring team requested information to demonstrate that 2021 data had been included in an updated the Annual Report. Still, as of the close of IMR-15, 2021 use of force data had not been assembled in either final or preliminary form.<sup>20</sup> Once all the pending backlog cases are completed, APD will reassess the report for final status.<sup>21</sup>

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<sup>20</sup> IMR-15 closed on January 31, 2022. Annual Reports are a large undertaking, and even under even normal circumstances it would not be expected to complete a final annual report before the close of January each year. That does not, however, diminish the significance of the impact the use of force



With APD publishing their Preliminary 2020 Annual Use of Force Report in during the IMR-14 reporting period, they have sustained secondary compliance with Paragraph 23. When APD implements its Early Intervention System and continues with timely Annual Use of Force Reports, the monitor will assess whether operational compliance has been achieved. In IMR-14, we cautioned APD that while the monitoring team recognized the purpose of disseminating a “preliminary” report, the organization must address the use of force backlog as quickly as possible so that the Annual Report can be finalized. APD should coordinate EFIT efforts with the publishing of final Annual Use of Force Reports, since they want to avoid having multiple “preliminary” reports pending simultaneously. We previously cautioned APD if that occurs, the agency will be in jeopardy of losing secondary compliance.

## Results

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **Not In Compliance**

### ***Recommendations for Paragraph 23:***

***4.7.10a: Cycle forward 2020 and 2021 data related to Paragraph 23 to ensure the Annual Use of Force Report are finalized and statistics remain up to date and accurate.***

***4.7.10b: Coordinate efforts with EFIT to ensure that data compiled following the completion of all backlogged use of force cases are quickly included in finalized 2020 and 2021 Annual Use of Force Reports to avoid having multiple “preliminary” reports disseminated simultaneously.***

### **4.7.11-4.7.18 and 4.7.21-4.7.25 Assessing Compliance with Paragraphs 24-31 and 34-38 (Electronic Control Weapons)**

Paragraphs 24-31 and 34-36 address requirements for APD’S use of Electronic Control Weapons (ECWs), as follows:

Paragraph 24: Use of ECWs;  
 Paragraph 25: ECW Verbal Warnings;  
 Paragraph 26: ECW Limitations;  
 Paragraph 27: ECW Cycling;  
 Paragraph 28: ECW Drive-Stun Mode;

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investigation backlog has on 2020 final report or APD’s inability to draw inferences from that data in a timely and effective manner.

<sup>21</sup> At the close of the monitoring period APD sought to expand the scope of work for the EFIT so that they would investigate the backlogged use of force cases. Based on our experience with this project and APD’s performance during the timeframe of those force events, we note it is likely EFIT will uncover issues that will impact use of force data for the years 2020 and 2021.

Paragraph 29: ECW Reasonableness Factors;  
Paragraph 30: ECW Targeting;  
Paragraph 31: ECW Restrictions;  
Paragraph 32: ECW Weak-side Holster;  
Paragraph 33: ECW Annual Certification;  
Paragraph 34: ECW Medical Protocols;  
Paragraph 35: ECW Medical Evaluation; and  
Paragraph 36: ECW Notifications.

During past reporting periods, the monitoring team conducted in-depth reviews of APD use of force cases involving the use of Electronic Control Weapons (ECWs). The results of those case reviews, along with the implementation of policy provisions through training and operational oversight, resulted in early operational compliance for Paragraphs 24 through 36. However, due to various degrees of in-field ECW compliance that have vacillated over time, the following paragraph sets forth APD's track record with ECW use and the monitoring team's subsequent reviews of this weapon usage to provide the appropriate context for understanding the monitoring team's findings during this monitoring period.

In IMR-9, APD compliance with five Paragraphs was adversely impacted as the result of the monitoring team's review of ECW cases. During a site visit in May 2019 (IMR-10), the monitoring team reviewed several of these cases in-depth with various members of APD in the form of technical assistance to provide perspective<sup>22</sup> on how to assess ECW cases. A review of ECW cases during IMR-10 revealed several deficiencies, from ECW deployment problems by officers to supervisory review and oversight errors. The cases the monitoring team reviewed during IMR-11 represented a markedly better result than the sample of cases reviewed during IMR-9 and IMR-10. During IMR-11, none of the cases reviewed by the monitoring team identified inappropriate deployments of ECWs by officers or supervisors. Supervisory oversight of ECW deployments was much better, with many nuances identified and addressed by either first-line supervisors or chain of command reviews. This was also largely the case for our review of ECWs during IMR-12. However, some compliance issues returned during IMR-13 when the monitoring team reviewed two ECW cases that were determined to be out of compliance. No ECW cases reviewed during IMR-14 were determined to be out of compliance.

During this monitoring period, APD case ledgers revealed 20 distinct cases in which an ECW was utilized (inclusive of 11 individual ECW Shows of Force). Four of the 20 ECW cases (20 percent) included only ECW Shows of Force (cases in which an actual ECW application did not occur).<sup>23</sup> These numbers represent a continued significant decrease

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<sup>22</sup> We provided technical assistance to APD since the IAFD personnel were conducting thorough reviews and had identified numerous policy violations. Where there was an issue related to the force used in an event, we recommended that IAFD examine the use of force case, since it is clear that the diligence of IAFD use of force case reviews was not being replicated in the field by front-line supervisors.

<sup>23</sup> In IMR-14, nineteen of the 40 ECW cases (48%) included only ECW Shows of Force (cases in which an actual ECW application did not occur). In IMR-13, 29 of the 67 ECW cases (43%) included only ECW Show of Forces (cases in which an actual ECW application did not occur). In IMR-12, sixty-four of the 99

in ECW over the previous monitoring periods.<sup>24</sup> As of mid-February 2022, APD had completed reviews/investigations of 11 of the 20 ECW use of force incidents that occurred during the IMR-15 reporting period. An analysis of these completed cases reveals the area commands closed one of the 11 cases (only two of the 20 ECW use of force incidents were investigated solely by area commands). Unfortunately, this one case took almost three months to complete, which is not consistent with the CASA provisions or APD SOP. The remaining ten cases were closed by IAFD all within specified timeframes. The completion of these cases by IAFD represents the first time during the monitoring process that all ECW cases investigated by IAFD have been completed within specified timeframes. For comparative purposes, we note that during IMR-14, the area commands closed nine of their supervisory reviews of ECW use, and IAFD closed two ECW investigations. During IMR-13, APD completed reviews of only three of the 67 ECW cases opened during the monitoring period as opposed to the 30 cases completed during IMR-12 and the 33 cases completed during IMR-11. These data are set forth below in Table 4.7.11.

Table 4.7.11

<b>Monitoring Period (MP)</b>	<b>ECW Cases Opened during the Monitoring Period</b>	<b>ECW Cases Opened <u>AND</u> Completed During the Same Monitoring Period</b>	<b>% of ECW Cases Opened and Completed During the Same Monitoring Period</b>
<b>IMR-11</b>	53	33	62%
<b>IMR-12</b>	99	30	30%
<b>IMR-13</b>	67	3	4%
<b>IMR-14</b>	40	11	28%
<b>IMR-15</b>	20	11	55%

A short synopsis of each case reviewed by the monitoring team is provided below. It is important to note that any problems with the supervisory review or IAFD investigation of ECW deployments will not be discussed in this section of the report. Instead, they will be reviewed in Paragraphs 41-59 for Supervisory Review of Use of Force Reporting and Paragraphs 60-77 which address Force Investigations by the Internal Affairs Division (IAFD).

[IMR-15-01] (ECW Application – Level 2 Use of Force)

APD officers responded during daylight hours to a September 2021 call about a suicidal male with a firearm. Upon arrival, the officers were able to speak with the individual by telephone and convince him to exit the residence without any weapons. The male eventually exited his apartment and sat on the curb awaiting officers to approach him.

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ECW cases (65%) included only ECW Show of Forces. In IMR-11, 10 of the 53 ECW cases (19%) included only ECW Show of Forces.

<sup>24</sup> IMR-14 had 40 ECW cases inclusive of 29 ECW Shows of Force. IMR-13 had 67 ECW cases inclusive of 44 ECW Shows of Force. IMR-12 had 99 ECW cases inclusive of 73 ECW Shows of Force. IMR-11 had 53 ECW cases inclusive of 21 ECW Shows of Force.

The officers appeared to utilize appropriate tactics and had a plan for approaching the individual. Officers appropriately used de-escalation techniques and crisis intervention language to reduce the individual's stress level. However, the individual became agitated and tried to get back into his residence by forcing his way past officers. At this point, the individual began pushing officers and punched one officer in the face. As officers attempted to restrain the subject from ascending a stairwell to his apartment and warned that he might be tased, another officer advised both officers to let go of the individual's legs and deployed a single ECW application while giving a warning. Only one probe apparently struck the individual, and he was successful in going up the stairs to his apartment. The officers retreated due to not knowing if there were additional weapons in the apartment. The officers called for supervisors and devised a plan for getting the individual out of his residence. APD personnel were successful in reconnecting with the individual via telephone and convincing him to come back outside, at which time he was handcuffed.

Officers transported the individual to the hospital for medical clearance based upon his suicidal tendencies. At the hospital, the subject became adversarial and abusive towards officers. Officers eventually transported the individual from the hospital to an APD station. Upon arrival, the individual voiced concerns for his health due to what he described as an elevated heart rate. Paramedics were summoned to the scene, but the arrestee eventually declined to cooperate with the paramedics. While outside of the vehicle and handcuffed, the individual became more agitated and adversarial towards officers by refusing to comply with commands as well as threatening officers and moving towards them while verbalizing physical threats. When it was obvious that the individual would not submit to requests to reenter the vehicle and after he aggressively turned towards an officer and verbalized physical threats, one of the officers used one hand to push the individual into the back seat of the vehicle and closed the door quickly so he could not exit the vehicle and continue to threaten officers. A supervisor was once again called due to the subsequent use of force. IAFD personnel also responded to the scene and conducted an appropriate on-scene investigation.

The monitoring team determined that the officer's deployment of a single ECW application was objectively reasonable and proportionate based on the individual's active resistance after assaulting an officer and attempting to flee. Officers appropriately identified the risk of deploying a second ECW application as the individual ascended the stairs and being on an elevated position. Thus, this single ECW application and restraint from utilizing a second ECW application were within policy and compliant with relevant CASA paragraphs.

[IMR-15-02] (ECW Application[s] – Level 2 Use of Force)

APD officers responded during pre-dawn hours to an October 2021 call about a commercial burglary at a smoke shop. An employee of the business stayed on the phone with communications personnel to help guide officers as the person had a video feed from security cameras on their phone and was observing a male individual in the business. Numerous officers responded to the scene and set up a perimeter around the business, which had an obvious broken window in the front of the structure, and a

shopping cart was immediately adjacent to the broken window and filled with merchandise. After being on scene for approximately 30 minutes, officers observed a male subject climbing out of the building through the window. Officers identified themselves and gave verbal commands for the individual to sit on the curb. The individual seemed confused and agitated at times but eventually sat down. Once officers moved closer to the individual and advised that they were going to place handcuffs on him, he jumped up and began running, causing at least one officer to fall before the suspect broke free of the officers and ran away. After running around the corner of the building, one officer discharged his ECW with what appeared to be only one probe hitting the individual in the back and not incapacitating them. Officers continued to chase the individual a very short distance on foot before the same officer discharged his ECW a second time. Both probes hit the individual this time, and he fell to the ground, injuring his head and face. When the officer discharged his ECW the second time, another officer had just caught up to and passed the subject and was placing his hands on the subject. Medical personnel and a supervisor were called to the scene and an on-scene investigation was initiated.

The follow-up IAFD/EFIT investigation appropriately determined that the preponderance of evidence revealed the officer who discharged his ECW on two occasions applied the ECW in a manner that was not consistent with APD SOP and CASA language, specifically for applying an ECW on an individual who is merely fleeing an officer for a property crime and was not posing an immediate threat to the officers, others, or themselves. The monitoring team concurs with this determination. It is important to note that in this instance, it was APD (IAFD) who first noted the policy violation, not the monitoring team.

[IMR-15-03] (ECW Show of Force – Level 1 Use of Force)

APD officers responded during overnight hours to a November 2021 call about a domestic violence incident in progress. Upon arrival, two officers conducted an investigation with both a male and female at an apartment where three young children were also present. After establishing that the male had struck the female resulting in a bloodied lip, officers advised the male that he was under arrest for domestic violence. The male immediately jumped up and took off running and was pursued through a hallway by both officers. The officers eventually caught up to the male and grabbed his arm. The male became aggressive with the officers and raised his arm as if to strike the officer with a hold on him. The other officer pointed an ECW at the male, who was still struggling with the officer who had a grasp of him and gave appropriate commands for the male to turn around and submit to the arrest or he would be tased. The male quickly complied and turned around to be handcuffed. While escorting the individual out of the second floor of the apartment complex, the male began to tense up and would not walk with officers. The officers were required to push and pull the man, utilizing reasonably minimal force while giving him commands and de-escalating him to the point that he eventually submitted to their request and authority and walked with them downstairs to the police vehicles. Once they began moving down the stairs, the male was compliant with the officers. An APD supervisor and other officers arrived on the scene to offer assistance.

One officer's use of force consisted of an empty hand control technique to overcome the suspect's resisted handcuffing that was necessary due to the subject fleeing on foot. Likewise, the other officer's show of force with the ECW was also the appropriate and minimal amount of force necessary to overcome the physical threat of the subject attempting to get free and commit another assault or batter the officer who had gripped the subject. The monitoring team found no issues with this incident.

[IMR-15-04] (ECW Show of Force – Level 1 Use of Force)

APD officers were called to investigate a report of an assault and attempted carjacking. The victim reported that a male punched him in the face, attempted to open his car door, and smashed his car's rear windshield. While responding to the scene, it was confirmed that the victim wanted to press charges. A description of the individual was obtained. That same person was reported as likely being under the influence of alcohol and or drugs. Two APD officers (including a sergeant) arrived in the area and located an individual matching the description of the suspect. The two officers attempted to stop and detain the suspect, but he ignored the officers' numerous commands and continued to walk away from the scene. This continued for several minutes, while the officers updated their location and requested backup. Based on the totality of circumstances, a responding sergeant justifiably unholstered his ECW. At one point, the individual stopped walking and made a sudden movement backward, which was in the direction of a second officer. At that point, the sergeant raised his ECW as a show of force, but it was observed that the subject stopped to pick up a cigarette butt from the ground. The subject's non-compliance continued, and as he approached a dumpster, the officers quickly closed the distance between themselves and the subject and took physical control of the subject. The individual briefly resisted handcuffing but was ultimately taken into custody without the officers resorting to a higher level of force.

An APD sergeant responded to the scene and conducted the Level 1 review of the incident. The monitoring team reviewed the available use of force documentation, including the use of force narratives and review, OBRDs, and chain of command reviews. In our opinion, the force was properly categorized, and officers' actions were objectively reasonable, within APD policy, and compliant with the CASA. They demonstrated tactical patience and were professional in their encounter with the individual.

[IMR-15-05] (ECW Application – Level 2 Use of Force and Multiple Other Uses of Force)

APD officers were called to assist an emergency medical crew with a suicidal military veteran who was being transported to the Veterans Affairs (VA) hospital. Two APD officers were the initial responders (others came later) and met with the ambulance crew, who reported the individual as "extremely suicidal." The officers learned that he had a self-inflicted laceration to his forearm. The officers saw a bystander, who identified

himself as a military veteran who happened to see what was transpiring.<sup>25</sup> This bystander was holding the subject and trying to calm him.

OBRD videos captured the event and showed a male individual in an obvious mental health crisis. His actions, demeanor, and words reflected someone who needed immediate mental health assistance. The officers both made attempts to calm him, with one officer initially taking the lead. The individual was irrational and physically struggled with the bystander and the officers who were attempting to subdue his movements by holding his wrists and arms before he began to rip off the bandage that was covering the laceration on his forearm. One officer instructed the bystander and other officer to “disengage,” meaning to let the subject go, and he unholstered his ECW. The subject stood 8-10 feet from the officer, not advancing toward the officers or any other person, saying “don’t f\*\* Tase me” and was pointing at the officer. He then said, “are you going to Tase me” at which time the officer inappropriately deployed his Taser in standoff mode against a passively resistant person. The Taser did not have the intended effect, and the subject was able to pull on the wires and pull the Taser from the officer’s hand. When that happened, the officer unholstered his handgun and the second officer unholstered her ECW as shows of force. The suspect picked up the ECW and threw it to the ground. He then walked away, at which time the same officer who had used his ECW followed and used three bursts of OC spray. The subject stopped and turned, telling the officer to “stop spraying me.” These three OC spray uses were also against a passively resistant person. Additional officers arrived at the scene and helped take the subject into protective custody.

The monitoring team’s assessment of the uses of the ECW and OC Spray were that they were used against a passively resistant person, not objectively reasonable, and not the minimum amount of force necessary or proportional under the circumstances.

[IMR-15-06] (ECW Application[s] – Level 2 Use of Force)

An APD officer responded to a disturbance call from a parent calling about her son being intoxicated, having a broken foot, being diagnosed as bipolar, and not taking his medication. Dispatch records indicated the individual was walking down the street and throwing rocks at vehicles, and that the subject’s mother wanted him taken to the hospital for evaluation. The officer located the male subject a short distance from his home and engaged him in conversation. From the onset, the officer’s tone was calm and professional, and after talking to him for a period, the officer convinced him to start walking back to his house. It should be noted that during his follow-up IAFD/EFIT interview, the officer indicated that he wanted to get the individual to his home as a safe place.

OBRD video showed the subject’s movements and speech to be indicative of someone who was extremely intoxicated on alcohol or drugs. He was rambling about different

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<sup>25</sup> This same bystander indicated that he worked at the VA a short distance away. He was extremely helpful at the early stages of the encounter with the subject, even holding him in a hugging position and talking to him in a manner that was reflective of someone with experience working with veterans in crisis.

topics but walked back to his house as instructed by the officer. Once there, he became increasingly agitated and boisterous and made several insulting comments and threats toward the officer. The individual's mother exited the house and attempted to calm her son down, without success. The subject staggered dramatically as he walked (also he was in a boot apparently for his foot injury) and fell to the ground. The subject staggered close to the officer on a couple of occasions while being boisterous and was pushed back by the officer to maintain distance. The subject made several threatening comments and insisted that the officer had killed one of his friends.

It should be noted that the things being said appeared to be those of a rambling, highly agitated, and intoxicated person. The officer unholstered his ECW, held it in a low-ready position, and told the individual not to come close to him again or he would be tased. The officer told him that he was done being nice, kept his distance, and at one point walked down the driveway toward the street. The male followed the officer down the driveway, and at the base of the driveway, the officer deployed his ECW, but it did not have the desired effect. The incident continued, and the subject's actions and demeanor continued. A second ECW deployment had the desired effect, and the individual was placed under arrest.

The subsequent IAFD/EFIT use of force investigation correctly identified the out-of-policy uses of force and an internal affairs investigation was initiated against the officer who used his ECW without a lawful objective and against a passively resistant person.

#### Observations and Comments

Based on our observations, supervisory oversight of ECW deployments by APD personnel continues to improve. Although the use of boilerplate language continues to be found in reports, it is now the exception as opposed to the alarming frequency seen in early monitoring reports. The frequency of officers overstating perceived threats to justify the use of an ECW is also declining. Reinforcement of training regarding the prohibition of utilizing ECWs on passively resistant subjects, better supervisory accountability, and better interviewing of subject and witness officers all seem to be impacting this dynamic. Inappropriate uses of ECWs now are being objectively called out on a more frequent basis at all levels of APD. All deficient uses of ECWs during this monitoring period were eventually called out by APD personnel at varying levels. This is a very positive trend for sustaining compliance levels for ECW use.

#### 4.7.11 Assessing Compliance with Paragraph 24

Paragraph 24 stipulates:

**“ECWs shall not be used solely as a compliance technique or to overcome passive resistance. Officers may use ECWs only when such force is necessary to protect the officer, the subject, or another person from physical harm and after considering less intrusive means based on the threat or resistance encountered. Officers are authorized to use ECWs to control an**



actively resistant person when attempts to subdue the person by other tactics have been, or will likely be, ineffective and there is a reasonable expectation that it will be unsafe for officers to approach the person within contact range.”

**Results**

Our analysis indicates that APD field personnel were in compliance with policy in only 25 percent of the incidents we reviewed related to Paragraph 24’s requirements. However, supervisory personnel noted and corrected the non-compliant activities prior to the monitoring team calling them out. In these cases, the system worked, and APD noted and responded to out-of-policy behavior in the field.

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

**4.7.12 Assessing Compliance with Paragraph 25: ECW Verbal Warnings**

Paragraph 25 stipulates:

“Unless doing so would place any person at risk, officers shall issue a verbal warning to the subject that the ECW will be used prior to discharging an ECW on the subject. Where feasible, the officer will defer ECW application for a reasonable time to allow the subject to comply with the warning.”

**Results**

**Verbal Commands Prior to Deployment of Tasers**

	<b>In Compliance</b>
IMR-15-01	Y
IMR-15-02	Y
IMR-15-03	Y
IMR-15-04	N/A
IMR-15-05	N
IMR-15-06	Y
<b>Compliance %</b>	<b>80%</b>

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **Not In Compliance**

**4.7.13 Assessing Compliance with Paragraph 26: ECW Limitations**

Paragraph 26 stipulates:

“ECWs will not be used where such deployment poses a substantial risk of serious physical injury or death from situational hazards, except where lethal force would be permitted. Situational hazards include falling from an elevated position, drowning, losing control of a moving motor vehicle or bicycle, or the known presence of an explosive or flammable material or substance.”

**Results**

**Deployment of Tasers in Situations Posing Risk of Serious Injury or Death**

	<b>In Compliance</b>
IMR-15-01	Y
IMR-15-02	Y
IMR-15-03	Y
IMR-15-04	Y
IMR-15-05	Y
IMR-15-06	Y
<b>Compliance %</b>	<b>100%</b>

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

**4.7.14 Assessing Compliance with Paragraph 27: ECW Cycling**

Paragraph 27 stipulates:

“Continuous cycling of ECWs is permitted only under exceptional circumstances where it is necessary to handcuff a subject under power. Officers shall be trained to attempt hands-on control tactics during ECW applications, including handcuffing the subject during ECW application (i.e., handcuffing under power). After one standard ECW cycle (5 seconds), the officer shall reevaluate the situation to determine if subsequent cycles are necessary. Officers shall consider that exposure to the ECW for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. Officers shall also weigh the risks of subsequent or continuous cycles against other force options. Officers shall independently justify each cycle or continuous cycle of five seconds against the subject in Use of Force Reports.”

**Results**

Tabular results for compliance with Paragraph 27 are presented below.

### Continuous Cycling of ECWs

	In Compliance
IMR-15-01	Y
IMR-15-02	Y
IMR-15-03	N/A
IMR-15-04	N/A
IMR-15-05	N
IMR-15-06	N
<b>Compliance %</b>	<b>50%</b>

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **Not In Compliance**

#### 4.7.15 Assessing Compliance with Paragraph 28: ECW Drive-Stun Mode

Paragraph 28 stipulates:

**“ECWs shall not be used solely in drive-stun mode as a pain compliance technique. ECWs may be used in drive-stun mode only to supplement the probe mode to complete the incapacitation circuit, or as a countermeasure to gain separation between officers and the subject, so that officers can consider another force option.”**

#### Results

### ECW Use in Drive-Stun Mode

	In Compliance
IMR-15-01	Y
IMR-15-02	Y
IMR-15-03	N/A
IMR-15-04	N/A
IMR-15-05	Y
IMR-15-06	Y
<b>Compliance %</b>	<b>100%</b>

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

#### 4.7.16 Assessing Compliance with Paragraph 29: ECW Reasonableness Factors

Paragraph 29 stipulates:

**“Officers shall determine the reasonableness of ECW use based upon all circumstances, including the subject’s age, size, physical condition, and the feasibility of lesser force options. ECWs should generally not be used against visibly pregnant women, elderly persons, young children, or visibly frail persons. In some cases, other control techniques may be more appropriate as determined by the subject’s threat level to themselves or others. Officers shall be trained on the increased risks that ECWs may present to the above-listed vulnerable populations.”**

## Results

### Use of ECWs Based on All Circumstances of Incident

	<b>In Compliance</b>
IMR-15-01	Y
IMR-15-02	Y
IMR-15-03	Y
IMR-15-04	Y
IMR-15-05	N
IMR-15-06	N
<b>Compliance %</b>	<b>66%</b>

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **Not In Compliance**

#### 4.7.17 Assessing Compliance with Paragraph 30: ECW Targeting

Paragraph 30 stipulates:

**“Officers shall not intentionally target a subject’s head, neck, or genitalia, except where lethal force would be permitted, or where the officer has reasonable cause to believe there is an imminent risk of serious physical injury.”**

## Results

One of the ECW cases reviewed this reporting period revealed that one of the probes deployed via a supervisor’s ECW struck an individual in the jaw area. The other probe possibly hit him near the waist. Due to the volatility of the situation, the fact that both the individual and the supervisor were moving, and that only one of the probes struck the jaw area, the preponderance of the evidence does not support the contention that the supervisor intentionally targeted the head or neck of the individual. The IAFD

investigation and reviewing commanders also came to the same conclusion as the monitoring team.

The table below, depicts outcomes in each of the six cases reviewed.

#### Targeting Person's Head, Neck, or Genitalia

	In Compliance
IMR-15-01	Y
IMR-15-02	Y
IMR-15-03	N/A
IMR-15-04	N/A
IMR-15-05	Y
IMR-15-06	Y
<b>Compliance %</b>	<b>100%</b>

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

#### 4.7.18 Assessing Compliance with Paragraph 31: ECW Restrictions

Paragraph 31 stipulates:

**“ECWs shall not be used on handcuffed subjects, unless doing so is necessary to prevent them from causing serious physical injury to themselves or others, and if lesser attempts of control have been ineffective.”**

#### Results

#### Taser Usage on Handcuffed Individuals

	In Compliance
IMR-15-01	Y
IMR-15-02	Y
IMR-15-03	Y
IMR-15-04	Y
IMR-15-05	Y
IMR-15-06	Y
<b>Compliance %</b>	<b>100%</b>

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

#### 4.7.19 Assessing Compliance with Paragraph 32: ECW Holster

Paragraph 32 stipulates:

**“Officers shall keep ECWs in a weak-side holster to reduce the chances of accidentally drawing and/or firing a firearm.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.20 Assessing Compliance with Paragraph 33: ECW Certifications**

Paragraph 33 stipulates:

**“Officers shall receive annual ECW certifications, which should consist of physical competency; weapon retention; APD policy, including any policy changes; technology changes and scenario- and judgment-based training.”**

## **Results**

Paragraph 33 requires APD officers to receive annual ECW certifications that consist of physical competency; weapon retention; APD policy, including any policy changes; technology changes; and scenario and judgment-based training. Taser 7 recertification was conducted (and completed) in two parts during the monitoring period for IMR-15. Part One included the Axon developed Taser 7 Certification Requirements, and the APD Academy chose to train the more stringent of two options: the De-escalation Scenario-Based Training Certification. This training included firing four live Taser 7 cartridges and four HALT training cartridges at various distances and giving warnings and announcements. Once again, it required officers to conduct a proper function test. Of the sworn officers required to attend the training, 96.8 percent have been certified (874 of 902). Part Two of the training occurred during the 2021 Tier 4 “Reality-Based Training” (RBT) and consisted of firing training cartridges in various scenarios. Academy documentation shows 98.7 percent attended this training (835 of 846).

The academy clearly documents all Taser training and deployment areas, including training for cadets. The academy quickly adapts changes to the training if an issue is discovered. They have also been active in conducting Mandatory Training Referrals.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.21 Assessing Compliance with Paragraph 34: ECW Annual Certification**

Paragraph 34 stipulates:

**“Officers shall be trained in and follow protocols developed by APD, in conjunction with medical professionals, on their responsibilities following ECW use, including:**

- a) removing ECW probes, including the requirements described in Paragraph 35;**
- b) understanding risks of positional asphyxia, and training officers to use restraint techniques that do not impair the subject’s respiration following an ECW application;**
- c) monitoring all subjects of force who have received an ECW application while in police custody; and**
- d) informing medical personnel of all subjects who: have been subjected to ECW applications, including prolonged applications (more than 15 seconds); are under the influence of drugs and/or exhibiting symptoms associated with excited delirium; or were kept in prone restraints after ECW use.”**

## **Results**

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

### **4.7.22 Assessing Compliance with Paragraph 35**

Paragraph 35 stipulates:

**“The City shall ensure that all subjects who have been exposed to ECW application shall receive a medical evaluation by emergency medical responders in the field or at a medical facility. Absent exigent circumstances, probes will only be removed from a subject’s skin by medical personnel.”**

## **Results**

The results for Paragraph 35 are depicted in the table below.

**Provision of Medical Attention**

	<b>In Compliance</b>
IMR-15-01	Y
IMR-15-02	Y
IMR-15-03	N/A
IMR-15-04	N/A
IMR-15-05	Y
IMR-15-06	Y
<b>Compliance %</b>	<b>100%</b>

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

**4.7.23 Assessing Compliance with Paragraph 36: ECW Notifications**

Paragraph 36 stipulates:

**“Officers shall immediately notify their supervisor and the communications command center of all ECW discharges (except for training discharges).”**

**Results**

**Notification of ECW Discharges**

	<b>In Compliance</b>
IMR-15-01	Y
IMR-15-02	Y
IMR-15-03	N/A
IMR-15-04	N/A
IMR-15-05	Y
IMR-15-06	Y
<b>Compliance %</b>	<b>100%</b>

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

**4.7.24 & 4.7.25 Assessing Compliance with Paragraphs 37 & 38**

Paragraphs 37 – 38 of the CASA address auditing and analysis requirements that APD must meet related to ECW use as follows:

Paragraph 37: ECW Safeguards; and Paragraph 38: ECW Reporting.



The Performance Metrics Unit (PMU) has maintained momentum throughout the IMR-15 reporting period and expanded its organizational impact.<sup>26</sup> We noted earlier that PMU, if supported properly, would likely benefit APD's compliance efforts in numerous ways. During our November 2021 site visit, members of the monitoring team met with personnel responsible for the tasks delineated in Paragraphs 37 and 38. It was evident that PMU's influence had expanded. Our meeting resulted in good dialogue and allowed the monitoring team to provide its perspective and technical assistance that we believed would benefit APD.

An example of how PMU skill sets are being leveraged relates to the Force Review Board (FRB) and how it captures votes regarding the appropriateness of force and investigations into that force when cases are presented. In past monitoring periods, we have called attention to the manner in which the FRB identifies types of force (many times multiple types and applications) and officers (many times multiple officers) within each case, since the FRB is charged with the responsibility of assessing each force application by each officer within an incident. It was challenging for FRB administrative staff to disentangle events when voting occurred during FRB meetings. PMU worked with FRB representatives and devised a way that FRB members could electronically cast votes for each force application within an incident. They accomplish the task by each voting member using an application on their phones to cast their votes in real-time. This began as a pilot during IMR-15 and remained as the voting protocol through the end of the monitoring period. This approach ensured FRB voting met APD's requirements, and directly addressed a concern previously called out by the monitoring team. The new process has the potential to increase the reliability of voting while also creating data collection efficiencies for APD.

In the past, we encouraged APD to continue providing resources to PMU, as it will likely reduce burdens elsewhere. We learned that PMU was approved for six (6) new auditor positions, so the PMU table of organization now stands as follows:

- (1) Enlisted Lieutenant
- (1) PMU Civilian Manager
- (2) Senior Auditors
- (10) Auditors

Our review of data during the reporting period resulted in APD maintaining its operational compliance with Paragraph 37.

In preparation for this report, the monitoring team requested course of business documentation that reflected the level to which APD organizes its effort to sustain its adherence to the requirements of Paragraph 37. As part of our review, we requested the following information for this reporting period: Any course of business documentation that demonstrates whether 1) APD conducted quarterly downloads and audits of all

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<sup>26</sup> PMU self-initiates reasonable areas for expansion to increase the influence they are having over APD operations.

ECWs; 2) APD conducted random audits of ECW deployments; 3) APD conducted directed audits of ECW deployments; and Area Command Inspection Reports and scorecards prepared by PMU and rebuttals submitted by Area Commanders.

In the past, we concentrated great energy during our conversations with APD on the use of force events reported and issues within those events. We provided recommendations for PMU to be proactive in their oversight of potential risk areas, specifically, whether data existed for arrests of assault on police officers, resisting arrest, or other such offenses, where there isn't an accompanying use of force report.<sup>27</sup> We felt that this was the type of proactive query PMU could conduct to self-identify issues before the monitoring team does. As we noted in IMR-14, in April 2021, PMU took the initial steps toward conducting audits for reporting discrepancies in keeping with our recommendation. We followed up on the progress of this initiative during the IMR-15 site visit.

As with each initiative PMU undertakes, they methodically approached the task by first ensuring auditors had the baseline skills and knowledge to conduct these types of use of force audits, and ensuring they explore proofs of concept and conducted pilot audits before "going live" with scorecards. PMU indicated that during their pilot of the program, they saw very few instances in which there was a battery on an officer and no accompanying use of force report, but quite a few resisting arrest charges with no accompanying use of force report. So far, they have isolated a couple of factors that contribute to that finding, including low-level control tactics (not a reportable use of force) and instances in which an individual may run from police but later gives up without the need for force. The fact that PMU is looking at these data is encouraging, and we highly recommend that APD executives review the findings PMU publishes for potential trends or issues. When APD enacted its new suite of force policies, we called attention to the fact that issues of non-reported uses of force would likely exist at the lower end where supervisors and IAFD, and now EFIT, may not be closely monitoring those processes.

PMU contemplates how to take a policy concept and measure it in practice and how to consider the "human element" when publishing results of their reviews. PMU holds round table discussions and tests the skills of auditors while discussing actual APD cases. They also engage in routine peer reviews to validate audit findings and assess auditor performance. Audits are rated based on their Quality Assurance (QA) rating, which they receive at the end of each month based on reviews of inspections each auditor conducts. A "declined inspection" means a peer review found two inspections that were incorrect, followed by the original auditor agreeing or disagreeing with the peer review.<sup>28</sup> The final word on an audit finding rests with the PMU Manager.

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<sup>27</sup> We recognize circumstances can exist in which an accompanying use of force may not be warranted; however, when these types of charges are brought by an officer, it is reasonable to believe that a use of force, in some measure, could exist. A particular area to concentrate effort will be on events during which officers report using low level control tactics during arrests for resisting arrest or assault on police officers and other similar charges.

<sup>28</sup> A "declined" inspection means an audit was "declined" as accurate; One mistake in an audit results in a "declined" inspection.

PMU field inspections of Area Commands, as well as investigative and Special Operations units, continued throughout the IMR-15 reporting period. Data we reviewed demonstrated that audits continue to be a routine part of PMU's business process.<sup>29</sup> For this reporting period, we reviewed 36 Inspection Summary and Scorecards for FSB, an additional 36 Inspection Summary and Scorecards for specialized tactical and investigatory units, as well as command rebuttals for the months of August 2021 through January 2022. These inspections allow PMU to measure compliance with CASA paragraphs principally focused on ECW, OBRD, APD firearms requirements, supervision, IA complaint forms, and requirements related to 72-hour extension requests for use of force investigations.<sup>30</sup> PMU directly correlates data to specific CASA related policy provisions and provides relevant observations analysts make during assessments that will be helpful to APD supervisors.<sup>31</sup>

PMU collects pre-determined sets of data that measure compliance efforts across the different commands and generates "Scorecards" that are shared back to those commands. The broad areas being assessed receive percentage scores of "compliance" levels that are then color coded. That makes the reports quickly digestible, which is an important quality for a field supervisor. During the IMR-15 reporting period, we continued to see strong exchanges between Commanders and PMU when an Inspection Report notes gaps in information or potential policy violations. Area Commanders have an opportunity to review and refute PMU findings and, as in the past, we saw instances where: 1) PMU agreed with a Commander's perspective and evidence that was presented, and then changed a report's finding; and 2) PMU disagreed with the perspective and evidence provided by a Commander and did not change the finding in the Inspection Report. We generally saw Command rebuttals fall into two categories: 1) Valid data submissions of supporting documentation that PMU could assess, or 2) Excuses. The rebuttals we reviewed where verifiable data was submitted were professional and thoughtful. It is with the latter category APD should focus energy on the short term since there is no value in excuses from an auditing perspective. Any supervisor's reliance on excuses (which we have seen permeate other areas of the organization) does not help with PMU or IMT audit findings.<sup>32</sup> We know that Commanders receive final PMU determinations, so it is incumbent for APD executives to reinforce across the organization the need to adhere to the language within an SOP and not to accept or advance excuses.

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<sup>29</sup> During our November 2021 site visit we asked the PMU manager to show the monitoring team the underlying sources of data they rely upon when assessing compliance. In Smartsheet, PMU retains each data "proof" they use that can easily be referenced when conducting audits or peer reviews.

<sup>30</sup> The current paragraphs noted in PMU's "Inspection Summary" Report included ECW paragraph 37; OBRD paragraphs 224, 230; Firearms paragraph 18; Supervision Paragraphs 32, 207 and 225; and 72-hour extension paragraph 53. We note that all of these areas are on the critical path to overall compliance.

<sup>31</sup> We have commented that the data being collected by PMU, if shared and analyzed from an IA and training perspective will be a tremendous resource. PMU isolates the data by Area Command and Unit and focuses even deeper on individual policy provisions that are being adhered to or violated.

<sup>32</sup> In one such instance, an investigative supervisor attempted to rebut a PMU finding that a detective's failure to upload their OBRD was a violation of SOP because their role in a particular incident was a non-mandatory recording instance. PMU rightfully denied the rebuttal and cited the SOP provision that clearly required the detective to upload "any" OBRD before the end of the subsequent shift.

We did note an instance where PMU accepted an officer/detective attending training as not being a “next shift” and an acceptable reason for not uploading their OBRD on that workday. This type of carve out should be explored further by APD to determine the impact it may have on other APD initiatives. For instance, if an officer’s next workday is an approved training class and then they go on regular or extended leave, the delay in uploading OBRDs may have an impact on the timeliness of use of force investigations.<sup>33</sup> PMU now publishes its monthly inspection reports on the APD web page for public view.

During our discussions with PMU, we did identify a factor that would likely impact the wider reliability of OBRD mandatory recording data. When PMU conducts an audit under Paragraph 224 for the mandatory recording of an event, they focus their review on the officer who is listed as the primary officer for the call. They also are only looking to determine if an OBRD exists for an event that requires OBRD recording and not whether the entire incident was captured. Therefore, if multiple officers arrive on scene and all have a reason to mandatorily record an event, the PMU audit scores the incident as compliant based on only the primary officer and only on whether any OBRD exists. Other officers on scene are generally not contemplated in the assessment. This is a crucial distinction for APD’s executive staff, who may receive different assessments of OBRD compliance of the same event (i.e., IAPS or IAFD data, and IMT assessments of compliance).<sup>34</sup>

APD, through the Compliance and Oversight Division (COD), initiated another pilot program called ReformStat, which is designed to oversee the work of project leads across APD who have the responsibility for specific CASA Paragraphs. ReformStat will require project leads to provide status updates on their efforts to achieve CASA compliance in their assigned Paragraphs, how they are addressing recommendations made in each IMR related to their Paragraphs, and holding them accountable to advance their CASA responsibilities. COD devised a Dashboard for each project for tracking and visualizing efforts toward compliance with each CASA Paragraph. Process Improvement Analysts (PIA) and PMU assist with action planning, and PIA will create a post-meeting Memorandum from each ReformStat meeting. We will discuss this initiative further with PMU during the IMR-16 reporting period but conceptually view this as a very positive effort.<sup>35</sup>

With respect to Paragraph 38, the monitoring team requested course of business documentation that demonstrated provisions within the paragraph had been met. During this reporting period, APD published its final Annual Use of Force Report, inclusive of

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<sup>33</sup> The monitoring team has been unambiguous with APD that OBRDs contain information and evidence that should be uploaded by the end of the shift in which they are created. APD has resisted this generally and has provided no legitimate reason OBRDs are not uploaded by the end of a current shift. However, APD have indicated they will require the practice for instances where the OBRD contains video of a use of force.

<sup>34</sup> PMU was cognizant of this limiting factor and indicated that the key obstacle to conducting a deeper review was the time it would take to watch the videos.

<sup>35</sup> In January 2022 PMU conducted three mock ReformStat meetings with the Crisis Intervention Unit (CIU) to work out any issues with the meeting flow. Parenthetically, PMU held the first real ReformStat for CIU on February 1, 2022, after the close of this reporting period.

2016-2019. The aggregation of year-over-year data gave the department better context to the information they are assembling. During the IMR-14 reporting period, APD published a Preliminary Annual Use of Force Report inclusive of 2016-2020 data. As discussed elsewhere, APD accumulated a large backlog of use of force investigations dating back to early 2020. Because of that failure, APD submitted its 2020 Annual Use of Force Report as “preliminary” since data may change as the backlogged use of force cases are subjected to investigations and chain of command oversight. The monitoring team requested information to demonstrate that 2021 data had been included in an updated Annual Report. Still, as of the close of IMR-15, 2021 use of force data had not been assembled in either final or preliminary status.<sup>36</sup> Once all the pending backlog cases are completed, APD will reassess the report for final status.<sup>37</sup>

Finally, during our site visit in November 2021, the monitoring team met with the PMU Manager and IAFD Commander, along with a DOJ representative to discuss language in Paragraph 38 regarding APD’s requirement to analyze specific ECW uses. Specifically, APD agrees to include the number of ECWs in operation and assigned to officers, and the number of ECW uses, as elements of the Early Intervention system. Analysis of these data shall include “a determination of whether ECWs result in an increase in the use of force, and whether officer and suspect injuries are affected by the rate of ECW use.” The monitoring team attempted to provide technical assistance and clarify this requirement with a former APD analyst, but APD felt the analysis was off track. Therefore, the PMU Manager decided to start over to meet this requirement. The discussion among those in attendance was good, and we believe the PMU Manager left the meeting with better clarity of how to meet that provision of the CASA. We will follow up on that element of Paragraph 38 during our next meeting with PMU to ensure they are on track with their analysis for when APD’s Early Intervention System is operationalized.

With APD publishing their Preliminary 2020 Annual Use of Force Report during the IMR-14 reporting period, they have retained secondary compliance with Paragraph 38. When APD implements its Early Intervention System with the required data from Paragraph 38 and continues with timely Annual Use of Force Reports, the monitor will assess whether operational compliance has been achieved.

#### **4.7.24 Assessing Compliance with Paragraph 37: ECW Safeguards**

Paragraph 37 stipulates:

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<sup>36</sup> IMR-15 closed on January 31, 2022, one month after the close of 2021. Annual Reports are a large undertaking, and even under even normal circumstances it would not be expected to complete a final annual report before the close of January each year. That does not, however, diminish the significance of the impact the use of force investigation backlog has on 2020 final report or APD’s inability to draw inferences from that data in a timely manner.

<sup>37</sup> At the close of the monitoring period APD agreed to expand the scope of work for the EFIT so that they would investigate the backlogged use of force cases. Based on our experience with this project and APD’s performance during the timeframe of those force events, it is likely EFIT will uncover issues that will impact use of force data for the years 2020 and 2021.

“APD agrees to develop and implement integrity safeguards on the use of ECWs to ensure compliance with APD policy. APD agrees to implement a protocol for quarterly downloads and audits of all ECWs. APD agrees to conduct random and directed audits of ECW deployment data. The audits should compare the downloaded data to the officer’s Use of Force Reports. Discrepancies within the audit should be addressed and appropriately investigated.”

**Results**

<b>Primary:</b>	<b>In Compliance</b>
<b>Secondary:</b>	<b>In Compliance</b>
<b>Operational:</b>	<b>In Compliance</b>

**4.7.25 Assessing Compliance with Paragraph 38: ECW Reporting**

Paragraph 38 stipulates:

“APD agrees to include the number of ECWs in operation and assigned to officers, and the number of ECW uses, as elements of the Early Intervention System. Analysis of this data shall include a determination of whether ECWs result in an increase in the use of force, and whether officer and subject injuries are affected by the rate of ECW use. Probe deployments, except those described in Paragraph 30, shall not be considered injuries. APD shall track all ECW laser painting and arcing and their effects on compliance rates as part of its data collection and analysis. ECW data analysis shall be included in APD’s use of force annual report.”

**Results**

<b>Primary:</b>	<b>In Compliance</b>
<b>Secondary:</b>	<b>In Compliance</b>
<b>Operational:</b>	<b>Not In Compliance</b>

***Recommendation for Paragraph 38:***

***4.7.25a: Operationalize the EIS process as soon as practicable following training of those who will be using the system. We recommend that the training plan be proffered to the monitor for review and assessment prior to implementation.***

**4.7.26– 4.7.27 Assessing Compliance with Paragraphs 39-40: Crowd Control Policies and After-Action Reviews.**

Paragraphs 39-40 of the CASA address requirements that APD must meet related to crowd control policies and the management and supervision of APD responses to events involving mass demonstrations, civil disturbances, and other crowd situations. During the IMR-15 reporting period, APD's ERT achieved operational compliance for the first time since the inception of this project with the successful delivery of three stages of training that have been discussed in prior monitor's reports.

As in the past, members of the monitoring team met with ERT command personnel during our November 2021 site visit to discuss progress APD has made to close the gap on previously identified shortcomings. In advance of the site visit, APD submitted training materials for several training programs, which were reviewed by the monitoring team. We provided feedback, and APD adjusted the curriculum, where appropriate. was resubmitted and approved for delivery. In addition, data requests were made to obtain training records, ERT policy, Event/Incident Action Plans (EIP/IAP), and After-Action Reports (AAR) completed during the monitoring period.

APD's ERT SOP 2-35 was approved by the monitor, became effective August 18, 2020, and is due for review.<sup>38</sup> An updated draft of SOP 2-35 is working its way through the policy development process and currently sits at Step 6 (of 8 Steps) the CPOA's 30-day review period. Since APD's Academy is required to provide crowd control-centric training on an annual basis to maintain training requirements in Paragraph 87, we highly recommend that ERT and academy personnel coordinate their 2022 training efforts once the new SOP is approved. This will help keep ERT and academy training requirements up to date.

ERT created the (PD# 3116) Demonstration Post Form for Non-ERT Callout form for instances in which Field Services Bureau (FSB) officers respond to a call for service involving a public gathering, but ERT does not deploy to assist. The responsibilities for completing the form are listed in SOP 2-39, "Field Services Bureau Response to Demonstrations, Incidents and Event," and ERT prepared a briefing video for FSB that the monitoring team reviewed. The briefing video will be distributed using APD's Learning Management System (LMS). This will help structure and document information that the department can use for future planning and training purposes.

ERT came prepared for our November 2021 meeting and provided a PowerPoint presentation outlining its efforts to address specific feedback from IMR-14. As we noted in IMR-14, the new ERT Commander is more engaged with CASA requirements and is supported by a deputy chief committed to ensuring those requirements are met.

The following represents our findings related to Paragraphs 39-40 for this monitoring period:

Since the beginning of IMR-9, we have documented ERT's effort to develop training and how that training is intended to address CASA requirements through a 3-Stage delivery

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<sup>38</sup> In response to past recommendations, we were told that during the annual review, a provision would be included in the SOP concerning IAFD and their response to ERT deployments.

process. Through different ERT command changes, little had been done to advance a relatively simple and necessary training task.<sup>39</sup> During this reporting period, all three stages of training materials were submitted to the monitoring team for review, were approved<sup>40</sup>, and delivered to APD and ERT personnel as follows:

**Stage 1** – The monitoring team was provided a lesson plan, PowerPoint, and video for “Field Services Response to Demonstrations and Civil Disturbances” on September 2, 2021. Feedback was given on September 8, 2021, and final approval was given for the course on October 8, 2021, after APD revised the course. The training video was delivered to APD through their online Learning Management System (LMS). The monitoring team requested and was provided training attendance and testing records and the Close Out Memo for the course dated January 20, 2022. Records revealed that 883 of 914 (96.6 percent) sworn APD personnel successfully attended the course, with 31 additional still pending due to them being on extended authorized leaves of absence.

**Stage 2** – The monitoring team was provided a lesson plan and PowerPoint for “Emergency Response Team: Officer Development” on October 22, 2021. Feedback and approval were given on November 2, 2021. The monitoring team requested and was provided training attendance and testing records and the Close Out Memo for the course dated January 7, 2022. Records revealed that 93 of 94 (98.9 percent) ERT sworn personnel successfully attended the course, with one additional officer still pending due to being on an authorized leave of absence.

**Stage 3** – The monitoring team was provided a lesson plan and PowerPoint for “Emergency Response Team: Supervisor Development” on October 22, 2021.<sup>41</sup> Feedback and approval were given on November 2, 2021. The monitoring team requested and was provided training attendance and testing records and the Close Out Memo for the course dated January 7, 2022. Records revealed that 93 of 94 (98.9 percent) ERT sworn personnel successfully attended the course, with one additional officer still pending due to being on an authorized leave of absence. We noted several instances where retests were required to remediate below passing scores.

The successful delivery of these programs has been a lengthy task for APD’s ERT. When the monitoring team met with the ERT Commander and deputy chief who oversee ERT in June 2021, we provided our perspective and technical assistance. We believed that with a reasonable amount of effort, APD could complete these three courses before the close of IMR-15. The deputy chief committed to achieving that goal, and APD met

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<sup>39</sup> We note that training failures may have exacerbated issues APD encountered with its response to protests in the summer of 2020.

<sup>40</sup> The monitoring team provided feedback to APD’s ERT and academy regarding each training program. Following our review of modifications of curriculum all three programs were approved for delivery.

<sup>41</sup> Training records are identical for Stage 3 because APD decided to deliver both Stage 2 and 3 to all ERT personnel, wanting assigned officers to understand the role supervisors have with ERT.



that commitment. It is important to note that the quality of the training materials was of much higher quality than in the past. By ERT working with new academy personnel, the lesson plan and testing instrument were easy to follow, and the PowerPoint had a professional appearance.

ERT previously initiated monthly newsletters to communicate information to its members on a routine basis to supplement training initiatives. The newsletters contain general information relevant to routine operations, encourage ERT members to recruit officers to the team, and are used to rapidly disseminate lessons learned from deployments. We had an opportunity to review four newsletters in the last monitoring period and found them a very positive initiative. During our November 2021 site visit, we learned that ERT moved to quarterly, instead of monthly, newsletters largely based on the technical assistance we provided in IMR-14. While the newsletters will be delivered quarterly, we were told that ERT would supplement that cadence with additional distributions, as needed, based on organizational needs or to disseminate information on emerging national trends.

We again discussed the administration of mandatory and routine ERT training during our site visit. As noted above, ERT submitted its three stages of training through the 7-Step Training Cycle, and the increase in quality of those programs was evident.<sup>42</sup> We reviewed the ERT 3<sup>rd</sup> Quarterly Training attendance records and a Close Out Memo (Dated January 7, 2022) provided in response to our data request. A total of 88 of 92 sworn members attended the training, with four on authorized leave.<sup>43</sup> We have previously commented that routine training may be too cumbersome to run through the 7-Step Training Cycle since units like ERT need more nimble environments to train their members. We still encourage ERT to apply the basic tenets of APD training development when building, disseminating, and tracking routine training programs.

The monitoring team requested that APD provide documentation for any mobilizations to mass gatherings during the IMR-15 monitoring period and learned that there were none. ERT is in the process of revising its After-Action Report template for use moving forward.

In IMR-12, the monitoring team called out coordination issues between SOD and ERT during events. The issues we previously documented were initially discussed internally by SOD. We discussed that this training should be viewed similarly to other routine training in the short term so that ERT and SOD have a solid foundation to work together during events. On August 19, 2021, Special Order 21-99 was issued for an ERT Mass Training Exercise, including the Horse Mounted Unit (HMU), and the Special Operations Division (SOD). Over two days in September 2021, the three units conducted a training exercise to designed to build better coordination among the units. We reviewed a

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<sup>42</sup> As we note in Paragraphs 86-88, the hiring of a qualified Curriculum Development Manager at the academy has greatly increased the overall quality of course materials we received during this monitoring period.

<sup>43</sup> Specialized units like ERT must contemplate how to remediate learning gaps that naturally occur when members miss routine training. Over the course of time, tracking which officers miss training, since presumably skill building is the purpose of the training, and what ERT can do for even that small population of officers will be important for long term success.

training Close Out, dated January 7, 2022, that indicated 88 of 92 (95.6 percent) of sworn ERT personnel attended the combined training. The four remaining members were on authorized leaves of absence.

APD also issued Special Orders, 21-74 and 21-76, for ERT to host 3-day FEMA courses entitled “Field Force Operations” and “Field Force Extracting,” both occurring in August 2021. As for these courses, the monitoring team was not presented with training materials to assess whether any points from the courses may conflict with APD policy or the CASA. In the past, we have encouraged APD units to collect course materials to be reviewed by the academy to ensure there are no CASA implications and for organizational archiving of all outside training.<sup>44</sup> We suggest that ERT do the same for all future training. We will discuss this in greater depth with ERT during our next site visit.

Based on our review of training records, we have determined that APD has moved from primary compliance to operational compliance for Paragraphs 39 through 40. We again recommend that ERT develop and deliver ongoing ERT training in conjunction with the academy since the coordination of the ERT training will benefit academy-centric responsibilities in Paragraphs 86-88. The ERT requirement to these paragraphs for policy maintenance, training, and after-action reviews is an ongoing requirement. Now that operational compliance has been achieved, ERT needs to retain that compliance level.

#### **4.7.26 Assessing Compliance with Paragraph 39: Crowd Control Policies**

Paragraph 39 stipulates:

**“APD shall maintain crowd control and incident management policies that comply with applicable law and best practices. At a minimum, the incident management policies shall:**

- a) define APD’s mission during mass demonstrations, civil disturbances, or other crowded (sic) situations;**
- b) encourage the peaceful and lawful gathering of individuals and include strategies for crowd containment, crowd redirecting, and planned responses;**
- c) require the use of crowd control techniques that safeguard the fundamental rights of individuals who gather or speak out legally; and**
- d) continue to prohibit the use of canines for crowd control.”**

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<sup>44</sup> We do not assert that there are any policy or CASA issues with the training ERT attended, only that a good practice is to conduct assessments of training pre-delivery. If that is not possible, the assessment can be conducted once training materials are in APD’s possession and if any remediation efforts are necessary, it can be coordinated and documented through the Training Academy.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.27 Assessing Compliance with Paragraph 40

Paragraph 40 stipulates:

**“APD shall require an after-action review of law enforcement activities following each response to mass demonstrations, civil disturbances, or other crowded situations to ensure compliance with applicable laws, best practices, and APD policies and procedures.”**

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.28 – 4.7.46 Assessing Compliance with Paragraph 41-59: Supervisory Review of Use of Force Reporting

This series of related Paragraphs (41 through 59) encompass requirements for reporting, classifying, investigating, and reviewing uses of force that require a supervisory-level response based upon the type and extent of force used. The CASA delineates this larger group of paragraphs into three separate sub-groups: Use of Force Reporting – Paragraphs 41-45; Force Reviews and Investigations – Paragraphs 46-49; and Supervisory Force Reviews – Paragraphs 50-59. The following represents our findings relative to this series of paragraphs.

The CASA requirements stipulate that the use of force and reviews/investigations of force shall comply with applicable laws and comport to best practices. Central to these reviews and investigations shall be an assessment and determination of each involved officer’s conduct to determine if the conduct was legally justified and compliant with APD policy. We have commented extensively in the past that APD’s reporting and investigation of uses of force have demonstrated serious deficiencies that have hindered compliance efforts. As with other reporting periods, the monitoring team spent time during the IMR-15 reporting period in consultative processes providing perspective, feedback, and technical assistance to APD personnel regarding force investigations. We provided perspective to APD to help the administration better understand and deal with historical difficulties the agency has had in achieving compliance and provided ideas concerning how these issues could best be addressed moving forward. During the 15<sup>th</sup> reporting period, we have seen examples of our technical assistance being implemented in certain areas and a continued improvement with the overall handling of use of force incidents. Still, at times APD’s lack of consistency hinders its overall compliance efforts.

Case reviews and cursory checks of use of force reviews and investigations by the monitoring team continue to reflect numerous examples of personnel requesting IA investigations on policy violations. These requests have historically been referred to as an Internal Affairs Request (IAR). A number of use of force cases (Levels 1, 2, and 3) reviewed during this reporting period contained requests for IA reviews (IARs) for alleged policy violations. These IARs continue to be examined by the monitoring team to the point of their logical conclusions in order to determine if APD is properly administering its IA oversight functions. During IMR-15, APD's tracking data indicates that between August 1, 2021 and the end of the year, APD issued 90 requests for IA review of alleged policy violations associated with use of force reviews and investigations. Table 4.7.28a on the following page illustrates the trend of IARs originating from use of force cases.

Table 4.7.28a

## Comparison of Use of Force Cases with Internal Affairs Requests (IARs)

Reporting Period (RP)	Level 1 UoF	Level 2 UoF	Level 3 UoF	Total UoF	Internal Affairs Requests (IARs)
<b>IMR-10</b>	241 <sup>1</sup>	<sup>2</sup>	54 <sup>2</sup>	295	263
<b>IMR-11</b>	241 <sup>1</sup>	<sup>2</sup>	40 <sup>2</sup>	281	404
<b>IMR-12</b>	173	232	79	484	534
<b>IMR-13</b>	111	244	54	409	424
<b>IMR-14</b>	116	216	91	423	199
<b>IMR-15</b>	79 <sup>3</sup>	169	43	291	90 <sup>4</sup>

<sup>1</sup> Level 1 use of force cases were referred to as Supervisory Use of Force Investigations prior to IMR-12.

<sup>2</sup> After January 10, 2020, Serious Use of Force Investigations were split into Level 2 and Level 3 Use of Force Investigations. Since Level 2 and Level 3 data were not available for IMR-10 and IMR-11, use of force incidents that were classified as Serious Uses of Force in IMR-10 and IMR-11 are represented in the "Level 3 UoF" column in this table. Thus, the "Level 2 UoF" column has no data in it for IMR-10 and IMR11.

<sup>3</sup> The 79 Level 1 UoF cases opened during IMR-15 represent a 32 percent decrease from the 116 Level 1 UoF cases opened during IMR-14.

<sup>4</sup>The 90 IARs for IMR-15 reflect IARs between the period of August 1, 2021, and December 31, 2021. Data for January 2022 is still pending.

Since all potential policy violations observed during use of force incidents have been reported to IAPS via IARs, this aggregate data provides a rich resource for APD to analyze to determine alleged misconduct trends. Any training conducted by the academy or other entity within APD should, as contextually appropriate for the course being designed, examine these data as part of its needs assessment phase of curriculum development.

During this reporting period, APD opened 79 Level 1 use of force cases for supervisory review. In contrast, APD opened 116 Level 1 use of force cases for supervisory review during IMR-14, 111 Level 1 use of force cases for supervisory review during IMR-13, 173 new cases during IMR-12, and 241 supervisory use of force reviews during IMR-11.<sup>45</sup>

We also note the continuing drop in the number of IARs since IMR-12. APD should assess the reasons for this drop from 534 in IMR-12 to around 100 in IMR-15.<sup>46</sup> Since January 1, 2022, IAPS is tracking IA requests from IAFD cases utilizing a different numbering system. Thus, in future monitoring reports, requests for IA review of alleged policy violations associated with use of force reviews and investigations will be reported differently.

The monitoring team continues to provide extensive technical assistance and feedback to APD concerning the problems associated with their IA processes. This technical assistance, continuously provided since the onset of monitoring, increased in January 2020, and has continued throughout the writing of this report. This feedback provided by the monitoring team encompassed briefings on best practices in internal affairs operations and provided recommendations for improving existing internal processes to improve the lack of timeliness of APD's use of force investigations and to address the disparity in discipline that exists by deferring disciplinary decisions to area commands. In this reporting period, evidence reveals that APD continues to struggle with completing supervisory force investigations within 72 hours. Additionally, APD supervisory and command personnel still struggle to complete their reviews of Level 1 use of force investigations within the allotted 30-day time period.<sup>47</sup>

In IMR-12, IMR-13, and IMR-14, there were several cases in each reporting period that took more than 60 days to complete. In fact, in IMR-14 there were ten cases exceeding 100 days (six of which exceed 150 days). On a positive note, in IMR-15 only one of the 51 completed cases<sup>48</sup> exceeded 60 days. On a less than positive note, a few Level 1 Use of Force cases that were completed during IMR-15 (but actually occurred prior to IMR-15) exceeded 60 days for the investigations. However, no case completed during IMR-15 exceeded 100 days.

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<sup>45</sup> The 79 Level 1 UoF cases opened during IMR-15 represent a 32% decrease from the 116 Level 1 UoF cases opened during IMR-14. A similar decrease (36%) in Level 1 UoF cases occurred between IMR-13 (111 cases) and IMR-12 (173 cases).

<sup>46</sup> APD's January 2022 data were still being processed as of the completion of this report.

<sup>47</sup> Pursuant to SOP 2-57, supervisors must complete and document a supervisory use of force review of a Level 1 use of force within 72 hours after the supervisor leaves the scene of the use of force incident (upon a commander's approval, supervisors may receive a seven-day extension). The lieutenant in the involved officer's chain of command has ten calendar days from receiving the supervisor's review to complete a review of a Level 1 use of force. The commander in the involved officer's chain of command has ten calendar days from receiving the lieutenant's review to complete the review of the Level 1 use of force. Thus, the maximum amount of time command has to complete a supervisory review is 30 days (assuming a seven-day extension was granted to the supervisor conducting the initial review).

<sup>48</sup> The 51 cases noted here are cases that involve a use of force that occurred during IMR-15 and the cases were completed during IMR-15.

As noted, APD completed its field review of only 51 of its 79 Level 1 use of force cases during this monitoring period. On a positive note, forty-six of these 51 cases were completed within 30 days, and only one of those cases exceeded 60 days. However, this 58 percent completion rate (46 of the 79 cases) is still a long way from the CASA-required 95 percent completion rate. It is important to note that, based upon data APD provided to the monitoring team as of mid-February 2022, APD completed no Level 1 use of force cases between December 21, 2021, and the end of the monitoring period (January 31, 2022). While it is important to note that APD is currently developing a proposal to change the way it handles Level 1 use of force cases, no documentation provided to the monitoring team accounts for this failure to complete any Level 1 use of force cases during the timeframe noted. Importantly, no Level 1 use of force cases initiated after November 23 were completed by January 31, 2022.

Timeliness continues to plague APD on a number of fronts, beyond just the deadline to complete supervisory use of force investigations. As we have documented in previous reports, the genesis of this problem is now immaterial to the outcomes of such demonstrated inability (or unwillingness) to complete the reviews. The timeliness (or effectiveness) of implementing corrective measures and identifying/remediating problematic behavior must be improved if APD is ever to meaningfully control improper uses of force. If not, the City will not be able to reduce its risk for individual officers, the police department as a whole, the City government, or the individuals encountered by its officers. This is an ongoing issue that the City has not remediated. Ample recommendations made by the monitoring team over the last several monitor's reports have focused on this issue, but the issue still persists.

During IMR-15, APD completed its field review of 51 of its 79 Level 1 UoF cases. As previously noted, 46 of these completed cases were completed within 30 days. This 58 percent completion rate (46 of the 79 cases) is still well below the 95 percent completion rate required for compliance. It is important to note that, based upon data APD provided to the monitoring team as of mid-February 2022, APD completed no Level 1 UoF cases between December 21, 2021, and the end of the monitoring period (January 31, 2022). While it is important to note that APD is currently developing a proposal to change the way it handles Level 1 UoF cases, no documentation provided to the monitoring team accounts for this failure to complete Level 1 UoF cases. By way of impact, no Level 1 UoF case initiated after November 23 was completed by January 31, 2022.

For comparative purposes, during IMR-14 only 66 of the 116 Level 1 use of force cases (57 percent) opened during the reporting period were completed within the allotted 30-day period. During the IMR-13 reporting period, 60 percent of Level 1 cases opened during the reporting period were completed within the allotted 30-day period. In IMR-12, 68 percent of Level 1 cases were completed within the allotted 30-day period. To put this into perspective, since 2020 the number of completed Level 1 UoF cases has decreased significantly, and APD continuously completes fewer and fewer Level 1 UoF reviews each monitoring period. As an example, it is worthwhile to restate succinctly that during IMR-14, APD handled 116 Level 1 UoF cases and closed 66 cases within 30 days. In comparison, during IMR-15 APD handled 79 Level 1 UoF cases and closed only 46 within 30 days. These trend data are significant because it is plainly evident that

for over a two-year period, whether the number of Level 1 cases increase marginally or decrease substantially, the force-investigation efficiency of APD area commands declines.

As the table below indicates, during the first three months (August through October) of the reporting period, 42 supervisory reviews were initiated and 90 percent of them (38 cases) were completed within 30 days. This is encouraging data, especially when comparing it to the first three months (February/March/April) of IMR-14, when 49 supervisory reviews were initiated and only 69 percent of them (34 cases) were completed within 30 days. As previously noted; APD's failure to complete any Level 1 UoF cases between December 21, 2021, and the end of the monitoring period (January 31, 2022) seriously derailed the positive progress made earlier in the monitoring period.

This analysis provides a snapshot of how APD continues to struggle to complete these investigations in a timely manner, whether the number of cases they initiate increases or decreases. See Table 4.7.28b below.

Table 4.7.28b: Timely Investigations of Supervisory Level 1 Use of Force Investigations for IMR-15

Reporting Period	# of Sup. UoF Cases Initiated (Months 1-3) of the Rep. Period	# of Sup. UoF Cases (Months 1-3) Completed within 30 days	Total # of Sup. UoF Cases Initiated during the Rep. Period	Total # of Sup. UoF Cases Completed within 30 days
IMR-15	42	38 (90%)	79	46 (58%)
IMR-14	49	34 (69%)	116	66 (57%)
IMR-13	52	41 (79%)	111	67 (60%)
IMR-12	99	76 (77%)	173	117 (68%)

The data provided in the immediately preceding paragraphs of this section of the report reflect Level 1 cases opened during the IMR-15 reporting period. It is important to understand that APD completed supervisory reviews of Level 1 cases that were opened in IMR-15 as well as cases that were opened in IMR-14. When accounting for all Level 1 cases completed during IMR-15 (regardless of when they were opened), APD completed 71 cases, and 58 of these cases were completed within 30 days, equating to 82 percent of the cases being completed within the 30-day time limit. This is a substantial improvement over the two previous monitoring periods. During IMR-14, when accounting for all Level 1 cases completed in IMR-14 (regardless of when they were opened), APD completed 116 cases, and 73 of these cases were completed within 30 days, equating to 62.9 percent of the cases being completed within the 30-day time limit. During IMR-13, APD area commands completed 70 percent of the cases (regardless of when they were opened).

Thus, this represents progress, which in the past has been elusive for APD in the area of completing Level 1 UoF reviews. APD should identify what specific patterns or people are preventing them from achieving consistency in their efforts and outcomes in this area of the CASA compliance and take prompt, appropriate action to ensure compliance does not remain out of reach.

A number of APD functions are implicated in various aspects of Paragraphs 48-52. For example, during our November 2021 on-site visit, the monitoring team met with APD representatives from the Multi-Agency Task Force (MATF). A review of the MATF case ledgers and other documents continues to indicate the task force's activation as set forth in Paragraphs 81-85.

The monitoring team conducted a review of Level 1 uses of force drawn from samples taken throughout the reporting period. Level 1 uses of force often occur with Level 2 and Level 3 uses of force. Therefore, some Level 1 uses of force are also discussed in the next section of this report that focuses on Level 2 and Level 3 uses of force. For Level 1 use of force cases involving an ECW, those case facts are more fully described in Paragraphs 24-36 of this report.

[IMR-15-03] (ECW Show of Force – Level 1 Use of Force)<sup>49</sup>

The case facts for this case were more fully described in Paragraphs 24-36 of this report.

This case involved APD officers responding during overnight hours to a November 2021 domestic violence incident in progress. Upon arrival, two officers conducted an investigation with both a male and female at an apartment where three young children were also present. After establishing that the male had struck the female, resulting in a bloodied lip, officers advised the male that he was under arrest for domestic violence. The male immediately jumped up and began running and was pursued through a hallway by both officers. The officers eventually caught up to the male and grabbed his arm. The male became aggressive with the officers and raised his arm as if to strike the one officer who had a restraining hold on him. The other officer pointed an ECW at the male, who was still struggling with the first officer, and gave appropriate commands to turn around and submit to the arrest or he would be tased. The male quickly complied and turned around to be handcuffed. Officers continuously de-escalated the incident as a means of convincing the individual to stop resisting low-level control tactics utilized to walk him a considerable distance downstairs from the second floor of the apartment complex.

We note that the responding on-scene supervisor conducted a very comprehensive use of force review and conducted an excellent interview of an eyewitness. Appropriate APD resources and medical personnel responded to examine the injured female, as well as to document her injuries and provide her with the appropriate resources for her to follow up as it pertains to the domestic violence incident.

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<sup>49</sup> This case is dealt with in greater detail on pp. 24-36 of this report.



[IMR-15-04] (ECW Show of Force – Level 1 Use of Force)

The case facts for this case were more fully described in Paragraphs 24-36 of this report.

This case involved APD officers who were called to investigate a report of an assault and attempted carjacking. The victim reported that a male punched him in the face, attempted to open his car door, and smashed his car's rear window. APD officers confirmed the victim wanted to press charges. A description of the individual was obtained, and the person could still be observed walking from the area by the victim. That same person was reported as likely being under the influence of alcohol and or drugs. Two APD officers (including a sergeant) arrived in the area and located a person matching the description of the individual. The two officers attempted to stop and detain the individual, but he ignored the officers' numerous commands and continued to walk away from the scene. This continued for several minutes while the officers gave updates of their location and requested backup. Based on the totality of circumstances, the sergeant justifiably unholstered his ECW when the individual stopped walking and justifiably raised his ECW as a show of force when the individual made a sudden movement backward in the direction of the second officer. Shortly afterward, the officers took physical control of the subject. The individual briefly resisted handcuffing but was ultimately taken into custody without the officers resorting to a higher level of force.

An APD sergeant responded to the scene and conducted the Level 1 review of the incident. The monitoring team reviewed the available use of force documentation, including the use of force narratives and OBRD video, and chain of command reviews. In our opinion, the force was properly categorized, and officers' actions were objectively reasonable, within APD policy, and compliant with the CASA. The responding officers demonstrated tactical patience and were professional in their encounters with the subject.

The documentation we reviewed, specifically the officers' use of force narratives, the supervisory review, and chain of command reviews were of a higher quality than past submissions reviewed by the monitoring team. During the review, we noted APD personnel made recommendations for policy revisions pertaining to supervisory notification. We saw these recommendations as reasonable. These policies and recommendations are as follows:

- APD SOP 2-56-4A(1) "All officers, regardless of rank, shall immediately notify their on-duty supervisor following any use of force, prisoner injury, allegation of any use of force, or show of force."
- APD SOP 2-57 "Use of Force – Review and Investigation by Department Personnel" governs the responsibilities of supervisors when a use of force is reported by an APD officer.
  - Provision 2-57B1 states, "The supervisor of an officer using force shall immediately respond to the scene to ensure that the use of force is appropriately classified based upon the Department's three-level force classification system."

--Provision 2-57C regulates on-scene responsibilities of a supervisor, and 2-57C1 states, "The supervisor of an officer using force shall perform the following duties at the scene of a use of force.", and then several requirements are listed.

In this incident, a sergeant responded to the scene and performed the on-scene requirements. The sergeant later handled the documentation responsibilities for the uses of force, but not "the supervisor" of the sergeant who used force, which by policy should have been someone at the rank of lieutenant or acting lieutenant. While the underlying classification and use of force findings were appropriate, the review was not conducted per APD SOP or the requirements of the CASA. This was not identified or corrected throughout the chain of command review. Again, as we have found in past reporting periods, the monitoring team was apparently the only level of oversight that took note of the issues with this case.

[IMR-15-07] (Level 1 Use of Force – Resisted Handcuffing)

In September 2021 APD officers responded twice within approximately one hour to a residence regarding a dispute between a male and female. The second time officers responded was to investigate a report of a domestic violence incident at the residence. Upon arrival, they were met by a female who indicated her boyfriend assaulted her, resulting in the woman receiving a small scratch on her face. She reported that the male damaged the bedroom door where the woman was hiding, and that the male also allegedly burned her dress. Officers separated both parties and interviewed them about what happened. After ascertaining enough information to determine the male was an aggressor in the incident, the officers advised the male that he was under arrest for battery of a household member. The officers calmly told the male to place his hands behind his back and the individual failed to do so. When the officers attempted to move his arms behind his back, the individual began resisting the officers. He began trying to step away from the officers. The officers calmly told the individual not to resist. Still, the individual continued to resist the officers' efforts to handcuff him and continued to try to step away from the officers. The officers remained calm and eventually were able to each move one of the individual's arms behind his back while all parties remained balanced and standing. Eventually, the individual was handcuffed. The individual was then walked a considerable distance to one of the APD vehicles parked around the building. A supervisor was called to the scene and responded. The supervisor conducted an on-site review of the use of force by reviewing the officers' OBRD video and checking with the victim to see if she had seen the use of force on the male. The officers' use of force (consisting of empty hand control) was necessary to overcome the subject's resisted handcuffing and his attempt to walk away from the officers. This use of force appears to have been necessary, and the minimal amount of force needed to accomplish the handcuffing of the arrestee.

[IMR-15-08] (Level 1 Use of Force – Show of Force with Handgun)

APD officers responded one afternoon in October 2021 to a residence regarding an individual possibly pointing a rifle at a resident. Upon arrival, officers met with a resident who claimed to have purchased marijuana from an individual using a counterfeit bill. The

seller subsequently threatened the individual with a firearm while demanding his money. The seller had departed the scene before officers arrived but may have been driving past the residence while officers were there talking with the residents. Since the vehicle fit the description provided, one of the officers began following the individual, using his patrol vehicle. Without any warning, the individual stopped and jumped out of the vehicle. The officer stopped abruptly behind the vehicle (the officer did not effectuate a motor vehicle stop). The individual exited his vehicle and after reaching back into his vehicle, began walking back to the officer's vehicle while shouting at him. The officer activated his vehicle's emergency lights and exited his patrol vehicle while drawing his handgun and pointing it at the individual, due to the fact that the individual was alleged to have pointed a rifle at others. The officer gave commands for the individual to get on the ground, and the individual retorted back for the officer to get on the ground. The individual then turned and jumped back into his car and sped away. The officer began to pursue the vehicle until the very short pursuit was terminated and visual contact was lost. Upon returning to the scene, the officer notified a supervisor of the show of force.

Since the individual was not arrested and not subsequently located, the on-scene investigation was very limited. However, the responding sergeant conducted a diligent check of the area for surveillance cameras and reviewed the officer's OBRD video to see if anybody else on the street may have been a potential witness, all with negative results. The investigation concluded that since the initial interaction with the resident involved an illegal narcotics transaction and the seller possibly pointed a rifle at the residents, the officer utilized necessary and appropriate force (in this case a show of force with his handgun) when he was abruptly confronted by the possible seller. We conclude that the officer's use of force was necessary, appropriate, and the minimal amount of force needed to protect the officer during this abrupt encounter.

[IMR-15-09] (Level 1 Use of Force – Pain Compliance / Resisted Handcuffing)

APD officers were dispatched to a reported aggravated assault between two motorists. Call details were sufficient prior to their arrival for officers to determine there was an active felony warrant for the owner one of the vehicles. Upon arrival, the victim told an officer that he had been struck with a crowbar and there was evidence of an injury. EMS was called, and the victim was told to move to a separate location. An officer approached the suspect's vehicle, which was stopped and pulled to the side of the road. The driver was seated behind the wheel and slouched to his right, apparently passed out. The officer reported detecting the odor of an alcoholic beverage emanating from the interior of the vehicle. Additional APD officers responded to the scene and one officer placed a spike strip at the front of the vehicle. The intended purpose was to deflate the vehicle tires in the event the driver awoke and attempted to drive away. Once additional officers arrived, the primary officer began public safety announcements to have the driver exit the vehicle of his own will. The driver apparently awoke and drove his vehicle away, puncturing the four tires on the spike strips in the process. Officers followed the vehicle and located it a short distance away, but it was unoccupied. The suspect was found a short distance away and was taken into custody without the need to use force. He was then taken to the Prisoner Transport Center (PTC) for processing. The suspect was agitated and verbally disrespectful to the officers during the arrest.

At the PTC, the primary officer conducted normal arrest processing duties. After a period, the suspect became more agitated with the length of the processing time. At the time, the individual was handcuffed by a single wrist to a bench in the middle of the processing room. While initially alone, eventually two additional arrestees were in the room and around his location. Over the course of several minutes, he would occasionally yell and pull hard on his handcuffed wrist, making excessive noise in the room. In response, the officer calmly told the suspect (several times) that he was awaiting the completion of paperwork. The suspect's actions continued and escalated, and the officer (later) documented his concerns that his actions were disruptive, could influence other arrestees, and could injure his own wrist. The officer made the decision to place both handcuffs on the suspect's wrists. Initially, the suspect was compliant but then began to resist the officer's attempts to apply the second handcuff. Three additional officers had to assist handcuffing the subject, and the primary officer had to use a pain compliance technique to subdue the suspect. Once both handcuffs were applied, the individual was placed in a holding cell, and his agitation and verbal threats toward the officers continued. These actions were all recorded on OBRD footage.

The actions of the officers constituted use of force and a supervisor was contacted to respond to the PTC. The event was properly characterized by the supervisor as a Level 1 use of force. Based on our review of the information we were provided, it is our opinion that the force used was objectively reasonable, necessary, proportional to the threat encountered by the officers, and within APD policy and the CASA. The officers' use force de-escalated once the suspect was subdued, and the officer's demeanor remained professional.

The monitoring team reviewed the available documentation for this case, inclusive of OBRDs and the chain of command reviews of the use of force investigation. There were several policy violations identified during the review process, including:

- Failing to activate an OBRD;
- Officers duplicating use of force reports; and
- Failing to report potential misconduct.

Each of these policy violations was referred as misconduct and discipline was imposed ranging from a verbal reprimand to 8 hours suspension.

[IMR-15-10] (Level 1 Use of Force – Show of Force with Handgun)

APD detectives and officers were investigating an aggravated assault during which a victim was assaulted with a weapon in a parking lot. As the officers were in the final stages of clearing the scene, an APD detective was moving his vehicle when he saw a male and female arguing in an alley in the immediate area next to where the APD personnel were located. These two people were entirely unrelated to the initial investigation that brought APD to the area. The detective saw the male begin running toward the initial scene with a handgun in his hand. The detective stopped and exited

his vehicle, gave commands for the individual to drop the weapon, identified himself as APD, and ordered him to get on the ground. The individual dropped the weapon and got onto the ground as ordered.

The subject and his girlfriend were interviewed, and APD learned that they had been inside a bar when the male got into a physical altercation with another patron. Bouncers in the bar asked them to leave and escorted them out the back of the bar, and the other patron out of the front of the bar. After the male and female briefly argued, the male took the weapon from his girlfriend's purse and was running toward the front of the bar when stopped by APD. No additional force was necessary to take the individual into custody since he followed all commands of the officers. The officers handcuffed the subject and were professional in their interactions. The detective used a Level 1 use of force. A second detective later reported an inadvertent contact of the subject with his weapon's muzzle as he approached to assist with the arrest. The latter was documented as such and not a reportable use of force.

The monitoring team had the opportunity to review the documentation and OBRDs associated with this event. The show of force was properly categorized by a responding supervisor as a Level 1. The force was objectively reasonable, necessary, and the minimum amount of force necessary, and in line with APD policy and the CASA. The documentation associated with the Level 1 use of force was of a higher quality than in past reporting periods.

In this section of the Fourteenth Monitoring Report, the monitoring team cited numerous problematic behaviors and processes that were observed by reviewing cases. Many of these behaviors and processes were either not seen in Level 1 case reviews during this monitoring period, or the incidence of such issues were minor. Issues that continue to plague APD are the timeliness of case reviews, thus necessitating extension requests, and officers still engaged in walking arrested persons long distances (which expose the officers and to numerous risks). We note that we see this as a safety issue, not a violation of CASA requirements.

The activation of OBRDs continues to show improvement. No discernible pattern of non-compliance with OBRD policies was observed in the Level 1 cases reviewed during this reporting period. Two years ago, the monitoring team initially called APD's attention to the potentially problematic APD policy that allows personnel to not upload their OBRDs until after the subsequent shift after a force event. APD personnel generally agreed with the concern of the monitoring team on this matter. In January 2022, APD indicated they were changing Department policy mandating that officers involved in a use of force will be required to upload their OBRD recordings by the end of the shift in which the use of force occurred, as opposed to after the subsequent shift of a force event. This is important because field supervisors conducting reviews of Level 1 uses of force have a very short window for reviewing evidence (as evidenced by historical failures to complete timely Level 1 use of force reviews).

#### **4.7.28 Assessing Compliance with Paragraph 41: Use of Force Reporting Policy**

Paragraph 41 stipulates:

**“Uses of force will be divided into three levels for reporting, investigating, and reviewing purposes. APD shall develop and implement a use of force reporting policy and Use of Force Report Form that comply with applicable law and comport with best practices. The use of force reporting policy will require officers to immediately notify their immediate, on-duty supervisor within their chain of command following any use of force, prisoner injury, or allegation of any use of force. Personnel who have knowledge of a use of force by another officer will immediately report the incident to an on-duty supervisor. This reporting requirement also applies to off-duty officers engaged in enforcement action.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### **4.7.29 Assessing Compliance with Paragraph 42: Force Reporting Policy**

Paragraph 42 stipulates:

**“The use of force reporting policy shall require all officers to provide a written or recorded use of force narrative of the facts leading to the use of force to the supervisor conducting the review or the APD officer conducting the investigation. The written or recorded narrative will include: (a) a detailed account of the incident from the officer’s perspective; (b) the reason for the initial police presence; (c) a specific description of the acts that led to the use of force, including the subject’s behavior; (d) the level of resistance encountered; and (e) a description of each type of force used and justification for each use of force. Officers shall not merely use boilerplate or conclusory language but must include specific facts and circumstances that led to the use of force.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.30 Assessing Compliance with Paragraph 43: Reporting Use of Force Injuries**

Paragraph 43 stipulates:

**“Failure to report a use of force or prisoner injury by an APD officer shall subject officers to disciplinary action.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### **4.7.31 Assessing Compliance with Paragraph 44: Medical Services and Force Injuries**

Paragraph 44 stipulates:

**“APD policy shall require officers to request medical services immediately when an individual is injured or complains of injury following a use of force. The policy shall also require officers who transport a civilian to a medical facility for treatment to take the safest and most direct route to the medical facility. The policy shall further require that officers notify the communications command center of the starting and ending mileage on the transporting vehicle.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### **4.7.32 Assessing Compliance with Paragraph 45: OBRD Recording Regimens**

Paragraph 45 stipulates:

**“APD shall require officers to activate on-body recording systems and record all use of force encounters. Consistent with Paragraph 228 below, officers who do not record use of force encounters shall be subject to discipline, up to and including termination.”**

## **Results**

A complete discussion of this topic is found in Paragraphs 220 – 231 below. During this monitoring period, APD has revised SOP 3-46 regarding discipline. They have made a distinction between attendance, misconduct, and performance violations. Violations must be of the same category to be considered in progressive discipline procedures. An example of this would be that a failure to record a mandatory recording incident is considered a misconduct violation. A failure to upload OBRD footage within the required

timeline is considered a performance violation. As such, these distinct OBRD violations will not be compounded when factoring progressive discipline.

During IMR-15, 130 cases were referred for investigation. Of these, 97 were closed. 72 were sustained, and four incidents resulted in recommendations for suspensions. A commander within Internal Affairs will now make the final disposition on all cases to apply appropriate and consistent measures bureau-wide. First-line supervisors will receive additional training regarding how to properly conduct performance and misconduct investigations and the area command will no longer make final determinations.

Monitor's Note: The majority of past OBRD errors noted by the monitoring team (and APD's Force Backlog Review Unit) indicated a failure of supervisors to assess and act upon OBRD failures exhibited by line personnel. Again, these were not policy or training errors, but errors in the implementation of approved policy. The errors were those of supervisory and management personnel failing to insist on compliance with the CASA. In the monitor's opinion, this constituted what has been a major weak point in APD's compliance efforts. During this period, we noted supervisors who were discovering and referring policy violations to Internal Affairs for investigation. With the additional training for first line supervisors, and the implementation of a central figure making the final disposition in cases, the monitoring team believes the probability of appropriate measures being taken for the violations has been increased. Of the 97 closed cases referred for investigation, 72 were sustained, and four of the 72 incidents resulted in a recommended suspension.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.33 Assessing Compliance with Paragraph 46: Force Investigations**

Paragraph 46 stipulates:

**"The three levels of use of force will have different kinds of departmental review. All uses of force by APD shall be subject to supervisory review, and Level 2 and Level 3 uses of force are subject to force investigations as set forth below. All force reviews and investigations shall comply with applicable law and comport with best practices. All force reviews and investigations shall determine whether each involved officer's conduct was legally justified and complied with APD policy."**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**



***Recommendations for Paragraph 46:***

***4.7.33a: APD should conduct a failure analysis relative to Paragraph 46 compliance and determine what caused this failure, and what area commands, shifts, supervisors were involved.***

***4.7.33b: Once the reasons for failure are identified, remedial action should be formulated and addressed.***

**4.7.34 Assessing Compliance with Paragraph 47: Quality of Supervisory Force Investigations**

Paragraph 47 stipulates:

**“The quality of supervisory force investigations shall be taken into account in the performance evaluations of the officers performing such reviews and investigations.”**

**Results**

APD has created a PRU compliance review process for Level 1 Use of Force investigations by supervisors. This is a 5-page comprehensive review of all aspects of the supervisory requirements for use of force investigations. Should the review highlight any inconsistencies in the investigation, the commander of the supervisor will be notified.

The acting lieutenant responsible for compliance with these requirements has been working diligently on revising SOP 3-32 Employee Work Plan/Performance Evaluations, and through consultation with the Performance Metrics Unit, has implemented a pilot program regarding the requirement to hold supervisors accountable for the quality of Use of Force Investigations during their performance evaluations. Policy 3-32 remained in the approval process during the IMR-15 period. Plans include supervisory training to ensure all requirements are met. The CASA-required supervisory review for Use of Force investigations was missing from the current Talent Management System. Once this becomes a routine/automated process with appropriate responses by supervisory and command responses to performance issues, the monitoring team will reassess compliance for Paragraph 47.

Primary: **In Compliance**  
Secondary: **Not In Compliance**  
Operational: **Not In Compliance**

***Recommendations for Paragraph 47:***

***4.7.34a: APD should conduct a failure analysis relative to Paragraph 47 compliance and determine what caused this failure, and what area commands, shifts, supervisors were involved.***

**4.7.34b: *Once the reasons for failure are identified, remedial action should be formulated and addressed.***

#### **4.7.35 Assessing Compliance with Paragraph 48: Force Classification Procedures**

Paragraph 48 stipulates:

**“APD agrees to develop and implement force classification procedures that include at least three categories of types of force that will determine the force review or investigation required. The categories or types of force shall be based on the level of force used and the risk of injury or actual injury from the use of force. The goal is to promote greater efficiency and reduce burdens on first-line supervisors, while optimizing critical investigative resources on higher-risk uses of force. The levels of force are defined as follow:**

- a. Level 1 is force that is likely to cause only transitory pain, disorientation, or discomfort during its application as a means of gaining compliance. This includes techniques which are not reasonably expected to cause injury, do not result in actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing). Pointing a firearm, beanbag shotgun, or 40-millimeter launcher at a subject, or using an ECW to “paint” a subject with the laser sight, as a show of force are reportable as Level 1 force. Level 1 force does not include interaction meant to guide, assist, or control a subject who is offering minimal resistance.**
- b. Level 2 is force that causes injury, could reasonably be expected to cause injury, or results in a complaint of injury. Level 2 force includes use of an ECW, including where an ECW is fired at a subject but misses; use of a beanbag shotgun or 40-millimeter launcher, including where it is fired at a subject but misses; OC Spray application; empty hand techniques (i.e., strikes, kicks, takedowns, distraction techniques, or leg sweeps); and strikes with impact weapons, except strikes to the head, neck, or throat, which would be considered a Level 3 use of force.**
- a. Level 3 is force that results in, or could reasonably result in, serious physical injury, hospitalization, or death. Level 3 force includes all lethal force; critical firearms discharges; all head, neck, and throat strikes with an object; neck holds; canine bites; three or more uses of an ECW on an individual during a single interaction regardless of mode or duration or an ECW application for longer than 15 seconds, whether continuous or consecutive; four or more strikes with a baton; any strike, blow, kick, ECW application, or similar**

use of force against a handcuffed subject; and uses of force resulting in a loss of consciousness. As set forth in Paragraphs 81-85 below, APD shall continue to participate in the Multi-Agency Task Force, pursuant to its Memorandum of Understanding, in order to conduct criminal investigations of at least the following types of force or incidents: (a) officer-involved shootings; (b) serious uses of force as defined by the Memorandum of Understanding; (c) in-custody deaths; and (d) other incidents resulting in death at the discretion of the Chief.”

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### **4.7.36 Assessing Compliance with Paragraph 49**

Paragraph 49 stipulates:

“Under the force classification procedures, officers who use Level 1 force shall report the force to their supervisor as required by Paragraph 42; Level 1 uses of force that do not indicate apparent criminal conduct by an officer will be reviewed by the chain of command of the officer using force. Level 2 and 3 uses of force shall be investigated by the Internal Affairs Division, as described below. When a use of force or other incident is under criminal investigation by the Multi-Agency Task Force, APD’s Internal Affairs Division will conduct the administrative investigation. Pursuant to its Memorandum of Understanding, the Multi-Agency Task Force shall periodically share information and coordinate with the Internal Affairs Division, as appropriate and in accordance with applicable laws, to ensure timely and thorough administrative investigations of uses of force.”

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### **4.7.37 Assessing Compliance with Paragraph 50: Supervisory Response to Use of Force**

Paragraph 50 stipulates:

**“The supervisor of an officer using force shall respond to the scene of all Level 1, 2, and 3 uses of force to ensure that the use of force is classified according to APD’s force classification procedures. For Level 2 and Level 3 uses of force, the supervisor shall ensure that the Force Investigation Section of the Internal Affairs Division is immediately notified and dispatched to the scene of the incident to initiate the force investigation.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### **4.7.38 Assessing Compliance with Paragraph 51: Self-Review of Use of Force**

Paragraph 51 stipulates

**“A supervisor who was involved in a reportable use of force, including by participating in or ordering the force being reviewed, shall not review the incident or Use of Force Reports for approval.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### **4.7.39 Assessing Compliance with Paragraph 52: Supervisory Force Review**

Paragraph 52 stipulates:

**“For all supervisory reviews of Level 1 uses of force, the supervisor shall:**

**a) respond to the scene and immediately identify the officer(s) involved in Level 1 use of force;**

**b) review the involved officer’s lapel video, determining whether the incident involves a Level 1 use of force;**

**c) review the lapel video of other officers on-scene where uncertainty remains about whether the incident rises to a Level 2 or Level 3 use of force;**

d) examine personnel and the subject for injuries and request medical attention where appropriate.;

e) contact the Internal Affairs Division to conduct a Level 2 or Level 3 use of force investigation if lapel video does not affirm a Level 1 use of force;

f) gather any evidence located at the scene of the Level 1 use of force;

g) capture photographs of the officer(s) and subject involved in the Level 1 use of force;

h) require the submission of a Use of Force Report from the involved officer by the end of shift; and

i) conduct any other fact-gathering activities while on-scene, as necessary, to reach reliable conclusions regarding the officer's use of Level 1 force."

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### 4.7.40 Assessing Compliance with Paragraph 53: Force Review Timelines

Paragraph 53 stipulates:

Each supervisor shall complete and document a supervisory force review of a Level 1 Use of Force within 72 hours of the use of force. Any extension of this 72-hour deadline must be authorized by a Commander. This Report shall include:

a) all written or recorded use of force narratives or statements provided by personnel or others;

b) documentation of all evidence that was gathered, including names, phone numbers, and addresses of witnesses to the incident. In situations in which there are no known witnesses, the report shall specifically state this fact. In situations in which witnesses were present but circumstances prevented the author of the report from determining the identification, phone number, or address of the witnesses, the report shall state the reasons why. The report should also include all available identifying information for anyone who refuses to provide a statement;

c) the names of all other APD employees witnessing the use of force;

d) the supervisor's narrative evaluating the use of force, based on the supervisor's analysis of the evidence gathered, including a determination of whether the officer's actions complied with APD policy and state and federal law; and an assessment of the incident for tactical and training implications, including whether the use of force could have been avoided through the use of de-escalation techniques or lesser force options; and

e) documentation that additional issues of concern not related to the use of force incident have been identified and addressed by separate memorandum.

## Methodology

During this reporting period the monitoring team reviewed fifty-two (52) APD Use of Force files for the period August 1, 2021, through January 31, 2022, as it pertains to the initial portion of this paragraph (72-hour requirement.)

APD has met the 95 percent threshold for the 72-hour requirement of this paragraph. As in previous reporting periods, a high number of the initial supervisory reports continue to require an extension. Commanders continue to grant extensions with stipulated timeframes depending on the circumstances for completion. In cases where minimal explanation was submitted in the extension request, the commanders tended to request more detailed reasoning to accept requests and approve for extensions. One case (IMR-15-04) of the fifty-two cases reviewed by the monitoring did not have supporting documentation to indicate the request was submitted on time. This constitutes an error rate of 1.9 percent, within the allowable five percent for compliance.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.41 Assessing Compliance with Paragraph 54: Command Review of Force

Paragraph stipulates:

**Upon completion of the Use of Force Report, investigating supervisor shall forward the report through his or her chain of command to the Commander, who shall review the report to ensure that it is complete and**

that the findings are supported using the preponderance of the evidence standard. The Commander shall order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability or credibility of the findings.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### 4.7.42 Assessing Compliance with Paragraph 55: Force Review Evidence Standard

Paragraph 55 stipulates:

“Upon completion of the review, the reviewing supervisor shall forward the review through his or her chain of command to the Commander, who shall review the entry to ensure that it is complete and that the findings are supported using the preponderance of the evidence standard. The Commander shall order additional review when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability or credibility of the findings. These reviews shall be completed electronically and tracked in an automated database within the Internal Affairs Division. Where the findings of the supervisory review are not supported by a preponderance of the evidence, the supervisor’s Commander shall document the reasons for this determination and shall include this documentation as an addendum to the original review. The supervisor’s superior shall take appropriate action to address the inadequately supported determination and any deficiencies that led to it. Commanders shall be responsible for the accuracy and completeness of the Level 1 force reviews prepared by supervisors under their command.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### 4.7.43 Assessing Compliance with Paragraph 56: Force Review Quality

Paragraph 56 stipulates:

**“Where a supervisor repeatedly conducts deficient supervisory force reviews, the supervisor shall receive the appropriate corrective and/or disciplinary action, including training, demotion, and/or removal from a supervisory position in accordance with performance evaluation procedures and consistent with any existing collective bargaining agreements, personnel rules, Labor Management Relations Ordinance, Merit System Ordinance, regulations, or administrative rules. Whenever a supervisor or Commander finds evidence of a use of force indicating apparent criminal conduct by an officer, the supervisor or Commander shall suspend the supervisory force review immediately and notify the Internal Affairs Division and the Chief. The Force Investigation Section of the Internal Affairs Division shall immediately initiate the administrative and criminal investigation.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### **4.7.44 Assessing Compliance with Paragraph 57**

Paragraph 57 stipulates that:

**“When the Commander finds that the supervisory force review is complete and the findings are supported by the evidence, the file shall be forwarded to the Performance Review Unit of the Compliance Bureau. The Performance Review Unit shall review the supervisory force review to ensure that it is complete and that the findings are supported by the evidence. The Performance Review Unit shall ensure that the file is forwarded to the Internal Affairs Division for recordkeeping. Where the Performance Review Unit of the Compliance Bureau determines that a supervisory force review, which has been completed by the supervisor and reviewed by the chain of command, is deficient, the Performance Review Unit shall forward the review to the supervisor for correction. Any performance deficiencies in the investigation or review will be noted in the affected Commander’s performance records.**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**



#### **4.7.45 Assessing Compliance with Paragraph 58: Reassignment of Force Review**

Paragraph 58 stipulates that:

**“At the discretion of the Chief, a supervisory force review may be assigned or re-assigned to another supervisor, whether within or outside of the Command in which the incident occurred, or may be returned to the original supervisor for further review or analysis. This assignment or re-assignment shall be explained in writing.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### **4.7.46 Assessing Compliance with Paragraph 59: Abuse of Force Discipline**

Paragraph 59 stipulates:

**“Where, after a supervisory force review, a use of force is found to violate policy, the Chief shall direct and ensure appropriate discipline and/or corrective action. Where the use of force indicates policy, training, tactical, or equipment concerns, the Chief shall also ensure that necessary training is delivered and that policy, tactical, or equipment concerns are resolved.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### ***4.4.46a: Recommendations for Paragraphs 41-59:***

***4.7.45a: APD should re-assess the monitor’s comments on paragraphs 41-59 and, where non-compliance was noted, conduct failure analyses to determine the issues causing non-compliance.***

***4.7.45b: Where causes can be identified, they should be rectified by changes to policy, supervision and/or training.***

#### **4.7.47 - 4.7.64 Assessing Compliance with Paragraph 60-77: Force Investigations by the Internal Affairs Division**

Since January 11, 2020, when APD enacted a new stratified system for categorizing and investigating use of force incidents,<sup>50</sup> supervisors and investigators received training on this new system that represented some of the best training the monitoring team had seen up to that point in time at APD. Unfortunately, APD had not fully operationalized this training to the point that it has had a meaningful impact on its operations. This is important because the need for APD to develop its ability to police itself is the centerpiece of its organizational reform efforts, and it is the linchpin for achieving the long-term sustainability of those reforms. The past failures of APD to exert its command and control over its ability to identify, investigate, and apply appropriate interventions (its 3-I domain) during IMR-12 continued to plague its operations in IMR-13 and IMR-14. During IMR-13, the Force Review Board (FRB) helped identify weaknesses in APD's operations, including the quality of IAFD's work product. This critical oversight of the quality of IAFD's investigations continues today. While the FRB can scrutinize the quality of IAFD's work product, the responsibility for IAFD's productivity (successfully completing cases in a timely manner) falls to those charged with its supervision, command, and oversight.

As we noted in IMR-14, "an examination of the overall use of force data and IAFD productivity data compiled by APD and provided to the monitoring team in the IMR-14 reporting periods makes one thing abundantly clear: APD executives either did not monitor the productivity of IAFD (the completion of cases), or if they did monitor these productivity levels, they did nothing to intervene and change behavior to improve case completion rates. The failure of senior command officials to ensure that such a critical function as IAFD can be effective was a serious and critical failure.

During IMR-14, the monitoring team reported that APD had been working to develop a "stipulated order" that would facilitate APD working with an external vendor who would temporarily supervise an external force investigation team (EFIT) to assist APD in conducting Level 2 and Level 3 force investigations involving APD personnel. EFIT would also assist APD with improving the quality of its force investigations. Under the Stipulated Order approved by the Court in 2021, EFIT may conduct these force investigations along with or independent of APD personnel. EFIT began responding to Level 2 and Level 3 force investigations on July 16, 2021<sup>51</sup>. The monitoring team met with and worked closely with members of the EFIT executive team during their preliminary processes. While the latter part of this section will critically examine the cases investigated by IAFD/EFIT during this monitoring period, the monitoring team takes cognizance of the improved progress (in both punctuality and quality) achieved by EFIT and APD in investigating and managing Level 2 and Level 3 use of force cases.

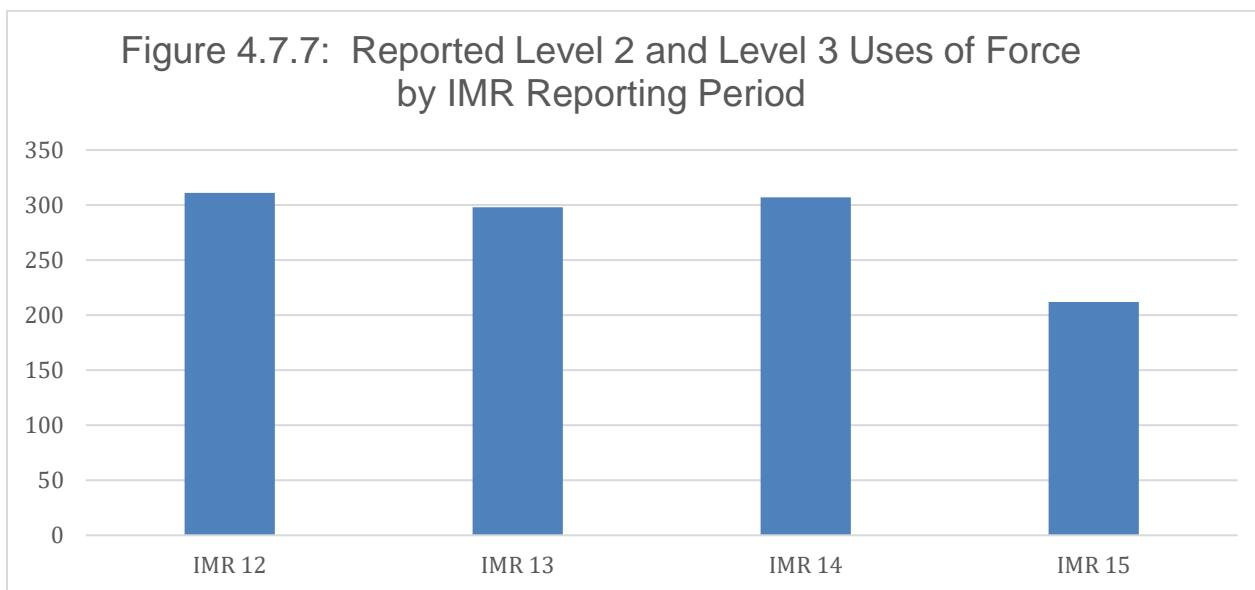
During IMR-15 (data current through early February 2022), APD recorded a combined 212 Level 2 and Level 3 use of force cases. This constitutes a significant reduction in the more serious levels of use of force in IMR-15 compared to IMRs 13 and 14. Figure One, below depicts the numbers of Level 2 and Level 3 cases generated by APD during

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<sup>50</sup> The new stratified system for categorizing and investigating use of force incidents was an APD-initiated process.

<sup>51</sup> The fourteenth monitoring period ended on July 31, 2021.

the IMR-13, IMR-14 and IMR-15 reporting periods. These data indicate a significant reduction in the levels of more serious uses of force by APD over a four-year period. Data for the four-year period indicate that for the IMR 12-14 reporting periods, the number of uses of force held relatively steady between 298-311 uses of force. In the fourth year depicted in Figure 4.7.7, below, the number of reported uses of force by APD personnel decreased dramatically, dropping by 95 cases to 212 uses of force by APD personnel in the 15<sup>th</sup> reporting period, compared to 307 uses of force in the 14<sup>th</sup> reporting period. This is a significant drop in reported uses of force by APD personnel and is a welcome change to the past three years of data which held steady in the 300-311 range. These data are depicted in Figure 4.7.7, below.



We consider these numbers significant. Reported level 2 and level 3 uses of force for IMR-15 are down more 31.8 percent since the monitor's 12<sup>th</sup> report.

One of the CASA implementation requirements to reach an operational compliance finding is that use of force cases must be completed within 90 days. While APD has always struggled to complete cases within 90 days, the past two monitoring periods generated completed case rates that exceeded that standard. During IMR-14, IAFD completed only seven of the 216 Level 2 cases that were opened during the monitoring period (representing a 3.2 percent completion rate), and only one of these seven cases was completed within 90 days (representing a completion rate below 1 percent). During IMR-13, only three contemporary Level 2 cases were completed within 90 days (yielding a 1 percent completion rate for Level 2 cases). APD has been following the same downward trend with Level 3 cases as well, completing only two of the 91 Level 3 cases that were opened during IMR-14 (yielding a 2.2 percent completion rate), and neither of these two cases was completed within 90 days.

During IMR-13, IAFD investigators completed only two Level 3 cases within 90 days. These data are concerning for several of reasons. First, it seems, again, that the monitoring team was the only entity expressing any sense of urgency regarding low case

completion rates. Second, such meager IAFD case completion rates will more likely than not lead to another case backlog at IAFD and will concomitantly lead to a large number of force-related IA cases that are not actionable (in terms of discipline) due to APOA contract stipulations regarding timelines for policy violation investigations. The Monitor considered these issues to be highly concerning, representing a critical failure of IA case management and oversight, and a gross failure to comply with CASA requirements.

During this monitoring period however, APD and the new External Force Investigation Team (EFIT) have completely reversed the previous trend in completing Level 2 and 3 UoF cases. IAFD, working alongside the External Force Investigation Team (EFIT), completed 101 Level 2 cases, with all 101 of the cases being completed within 90 days. This equates to 100 percent of the completed cases being completed within 90 days—well above the monitoring process' required 95 percent compliance rate. At the close of the 15th monitoring period, there were still 68 cases that were opened during the monitoring period that had not been completed. These cases will be examined during the IMR-16 reporting period.

The same holds true for Level 3 UoF cases. During this monitoring period, EFIT and APD completed 30 Level 3 cases with all 30 of the cases being completed within 90 days. This equates to 100 percent of the completed cases being completed within 90 days. At the close of the monitoring period, there were still 13 cases that were opened during the monitoring period that had not been completed. However, these 13 active cases had not yet reached the 90-day threshold. These cases will be examined during the IMR-16 reporting period. These data are shown in tabular form in Table 4.7.47a, below.

Table 4.7.47a Timely Investigations of  
Level 2 Use of Force Investigations: IMR-12 / IMR-13 / IMR-14 / IMR-15

Reporting period	# of Level 2 UoF Cases Initiated (Months 1-3) of the Rep. Period	# of Level 2 UoF Cases (Months 1-3) Completed within 90 days	Total # of Level 2 UoF Cases Initiated during the Rep. Period	Total # of Level 2 UoF Cases Completed within 90 days
IMR-15	99	97 (98%) <sup>52</sup>	169	101 (60%) <sup>53</sup>
IMR-14	117	1 (0.9%)	216	1 (0.5%)
IMR-13	126	3 (2%)	244	3 (1%)
IMR-12	108	97 (90%)	232	106 (46%)

<sup>52</sup> One case was determined to not be a force case and one case involved a criminal referral handled by IAPS from the onset outside of the purview of IAFD and EFIT.

<sup>53</sup> Sixty-eight of the seventy-three of the cases still active (not completed) at the end of the monitoring period had not yet reached their respective 90-day threshold.

Table 4.7.47b Timely Investigations of  
Level 3 Use of Force Investigations: IMR-12 / IMR-13 / IMR-14 / IMR-15

Reporting period	# of Level 3 UoF Cases Initiated (Months 1-3) of the Rep. Period	# of Level 3 UoF Cases (Months 1-3) Completed within 90 days	Total # of Level 3 UoF Cases Initiated during the Rep. Period	Total % of Level 3 UoF Cases Completed within 90 days
IMR-15	30	30 (100%)	43	30 (80%) <sup>54</sup>
IMR-14	42	0 (0%)	91	0 (0%)
IMR-13	37	2 (5%)	54	2 (4%)
IMR-12	25	21 (84%)	79	24 (30%)

To better appreciate the position APD now finds itself in, consider the data in the two tables above within the following historical context:

- On January 11, 2020, when APD operationalized its new stratified system for categorizing and investigating use of force incidents, IAFD had no case backlog. Thus, in the first three months of IMR-12 (February, March, and April of 2020), IAFD detectives completed 90 percent of Level 2 use of force incidents.<sup>55</sup> Although the cases were fraught with problems, the monitoring team estimates that optimal case outcomes could have been achieved with few deviations from the amount of time expended to achieve that 90 percent completion rate.
- At the end of IMR-12 (July 31, 2020), the completion rate for Level 2 use of force incidents fell to 46 percent.
- After the first three months of IMR-13 (October 31, 2020), the completion rates for Level 2 cases opened during the first three months of IMR-13 (August, September, and October of 2020) sunk to two percent.
- At the end of IMR-13 (January 31, 2021), the Level 2 completion rate was 1 percent.
- At the end of IMR-14 (July 31, 2021), the Level 2 completion rate was .5 percent (to include the completion of zero backlogged cases).

These data validate the monitoring team's assertion in our last report that APD's IAFD operation was headed in the wrong direction in terms of productivity. In this monitoring period, evidence reveals that productivity levels have completely reversed and are now headed in the right direction with momentum. We are aware that this reversal was achieved with external assistance provided by EFIT. Nonetheless, progress has been made during this reporting period. The issue that remains a significant concern for the monitor is how APD plans to adapt to workloads, case quality, and case management

<sup>54</sup> One case was delayed due to an involved officer being injured and unable to be interviewed and another case involved a criminal referral handled by IAPS from the onset outside of the purview of IAFD and EFIT. Neither of these cases were counted against IAFD/EFIT.

<sup>55</sup> Level 2 use of force cases were chosen for this analysis because they present the largest data set to analyze, and they constitute the bulk of the cases investigated by IAFD detectives.

practices once EFIT is no longer a part of the case workload function. We urge APD to consider this issue, to “think ahead” to the processes that need to be internalized, and to identify the training and oversight necessary to facilitate those processes in preparation for the day when the EFIT engagement is terminated, and the full burden of processing internal affairs cases falls once again on APD.

In the last reporting period, the monitoring team noted the growth of backlogged Level 2 and Level 3<sup>56</sup> cases, and the lack of progress on completing those cases. While no material progress has been made in completing backlogged cases, APD is presently negotiating a plan to address the backlogged cases. For this reason, the monitoring team will defer commentary on this proposed plan and will address the implementation and progress of this plan in our next monitoring period.

For IMR-15, the monitoring team conducted a review of completed Level 2 and Level 3 use of force cases drawn from samples taken throughout the reporting period. The cases reviewed and a synopsis of each case are listed below. It is important to consider that most of these cases also contained Level 1 uses of force that were investigated by IAFD instead of field supervisors. In the cases reviewed for this section of the report, the field supervisors correctly identified the level of force utilized and appropriately contacted IAFD. For the use of force cases involving an ECW, those case facts have been fully described in Paragraphs 24-36 of this report. Problems or general observations, if any, with these cases as they relate to the investigative practices of IAFD’s use of force investigations are cited here for clarity purposes.

[IMR-15-01] (ECW Application – Level 2 Use of Force)

The facts for this case were more fully described in Paragraphs 24-36 of this report.

APD officers responded during daylight hours to a September 2021 call about a suicidal male with a firearm. Upon arrival, the officers were able to speak with the individual by telephone and convince him to exit the residence without any weapons. The male eventually exited his apartment and sat on the curb awaiting officers to approach him. Despite officers utilizing appropriate tactics, de-escalation techniques, and crisis intervention language to reduce the individual's stress level, he eventually became agitated and tried to get back into his residence by pushing officers and striking one officer in the face. An unsuccessful ECW application contributed to failing to stop the individual from regaining access to his apartment. He eventually exited his apartment and was arrested without further incident. Officers transported the individual to the hospital for medical clearance based upon his articulated suicidal tendencies. At the hospital, he became adversarial and abusive towards officers. Officers eventually transported the individual from the hospital to an APD station. However, upon arrival, he voiced concerns for his health due to what he described as an elevated heart rate. Paramedics were summoned to the scene, but the individual eventually declined to cooperate with the paramedics. While outside of the vehicle and handcuffed, the arrestee became more agitated and adversarial towards officers by refusing to comply

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<sup>56</sup> The backlogged caseload has been reported to be as high as 667 cases at one time during IMR-15.

with commands, threatening officers, and moving towards them while verbalizing physical threats.

When it was obvious that the individual would not submit to requests to reenter the vehicle, turning towards an officer in an aggressive manner, and verbalizing physical threats, one of the officers told him that if he did not enter the vehicle, then the officers would physically place him into the vehicle for transport. Upon his continued refusal to take a seat in the vehicle, one of the officers used one hand to push the individual into the back seat of the vehicle and closed the door quickly so he could not exit the vehicle and continue to threaten officers. A supervisor was once again called due to the use of force. IAFD personnel also responded to the scene and conducted an appropriate on-scene investigation.

The monitoring team determined that the officer's deployment of a single ECW application was objectively reasonable and proportionate based on the individual's active resistance after assaulting an officer and attempting to flee. Officers appropriately identified the risk of deploying a second ECW application as the individual ascended the stairs to an elevated position. Thus, this single ECW application and officer restraint from utilizing a second ECW application due to situational risk factors were within policy and compliant with relevant CASA paragraphs.

Upon a supervisory review of this IAFD investigation, an IAFD sergeant with supervisory oversight of the investigation noted that the one-handed push of the individual into the vehicle may have violated policy. The IAFD supervisor submitted an Internal Affairs Request (IAR) for a potential policy violation. The subsequent IA investigation was assigned to an IAFD supervisor. The supervisor eventually interviewed the officer who used force in placing the uncompliant suspect into the vehicle. The video recorded interview of the subject officer portrayed the supervisor conducting the interview as critically unprepared. The supervisor appeared nervous, hurried, and uncertain (unable to recall the name of the individual against whom force was used). Since this was the person who issued the IAR, the line of questioning pertaining to the one-handed push would seem to be very important. However, the line of questioning about the push was deficient.

As a matter of consideration, the sergeant in this case apparently supervised the initial investigation, as the sergeant eventually reviewed this initial completed investigation. This sergeant also investigated the IA matter (for which he was the complainant), conducted the only interview in the case, and determined whether or not the use of force constituted a policy violation. This constitutes a problematic lack of internal controls. In previous reports, the monitoring team has called out the problematic practice of assigning IA investigations stemming from IAFD IARs back to the original investigator or to a junior investigator to investigate a supervisor. The issue articulated in this matter is of a similar, alarming practice. A supervisory investigation found to be faulty should be returned (with constructive commentary) by mid-management or command levels, e.g., lieutenant or commander. A breakdown or lack of internal controls can lead to problematic abuses of oversight. While nothing in this case gives rise to an abuse of authority, the way this matter proceeded can provide indicia of potential conflicts of

interest. APD should develop and articulate procedures to ensure appropriate internal controls are built into the IAFD and IAR processes.

[IMR-15-02] (ECW Application[s] – Level 2 Use of Force)

The case facts for this case were more fully described in Paragraphs 24-36 of this report.

This case involved APD officers responding during the pre-dawn hours to an October 2021 call about a commercial burglary at a smoke shop. An employee of the business stayed on the phone with communications personnel to help guide officers, as this person had a video feed from security cameras on their phone and was observing a male subject in the business. Numerous officers responded to the scene and set up a perimeter around the business, which had an obvious broken window in the front of the structure. A shopping cart was immediately adjacent to the broken window and filled with merchandise. The offender eventually exited the structure, was told he was going to be handcuffed, and fled on foot with officers close behind him in foot pursuit. After running around the corner of the building, one officer discharged his ECW with what appeared to be only one probe hitting the individual in the back and not incapacitating him. Officers continued to chase the individual a very short distance on foot before the same officer discharged his ECW a second time. This time both probes hit the individual and he fell to the ground injuring his head and face. When the officer discharged his ECW the second time, another officer had just caught up to and passed the individual and was placing his hands on the suspect when the other officer discharged his ECW for the second time. Medical personnel were called to the scene, along with a supervisor to initiate an appropriate on-scene investigation.

We note that effective interviewing contributed to the preponderance of evidence determination in this IAFD/EFIT investigation that the officer who twice discharged his ECW did so in a manner that was not consistent with APD SOPs and CASA language. The discrepancies in case facts and officer explanations were appropriately identified and explored in the professional interviews that the monitoring team reviewed. These types of interviews have not always historically taken place; however, they are now more commonplace.

[IMR-15-05] (ECW Application – Level 2 Use of Force and Multiple Other Uses of Force)

The case facts for this case were more fully described in Paragraphs 24-36 of this report.

APD officers were called to assist an emergency medical crew with a suicidal U.S. military veteran who was being transported to the Veterans Affairs (VA) hospital. Two APD officers were the initial responders (others came later) and met with the ambulance crew who reported the individual as “extremely suicidal.” The officers learned that the person had a self-inflicted laceration to his forearm and saw a bystander, who identified



himself as a military veteran and happened to see what was transpiring,<sup>57</sup> holding the individual and trying to calm him.

OBRD videos captured the event and showed a male in an obvious mental health crisis. His actions, demeanor, and words all reflected someone who needed immediate mental health assistance. Despite officer and bystander attempts to calm the individual, the officers ultimately struggled to hold the individual's wrists and arms to subdue his movements. Eventually, an officer inappropriately utilized an ECW application against this passively resistant person. When the Taser did not have the intended effect, and the individual was able to pull on the wires and pull the Taser from the officer's hand, the officer unholstered his handgun and the second officer unholstered her ECW as shows of force. The individual picked up the ECW and threw it to the ground. He then walked away, at which time the same officer who had used his ECW followed and used three bursts of OC spray. The individual stopped and turned, telling the officer to "stop spraying me." These three OC spray uses were also against a passively resistant person. Additional officers arrived at the scene and helped take the individual into protective custody, since there were no criminal charges under the circumstances.

The monitoring team's assessment of the uses of the ECW and OC Spray was that they were against a passively resistant person, not objectively reasonable, and not the minimum amount of force necessary or proportional under the circumstances.

The monitoring team reviewed the IAFD investigation that was assisted by and overseen by EFIT. The investigator and chain of command reviews all correctly identified the out of policy uses of force, and an internal affairs investigation was initiated against the officer who used his ECW and OC spray against a passively resistant person. The force investigation and officer interviews that were conducted showed a significant increase in quality from past cases we have reviewed. The conclusions matched the available evidence, and the interviews demonstrated much better preparation and organization.<sup>58</sup> The interviewer asked appropriate open-ended questions, followed up to ensure questions were answered, and had a professional and calm disposition.

The Internal Affairs/EFIT investigation into the matter resulted in sustained findings against the officer for use of force against a passively resistant person. The officer's retention card showed six separate cases since July 2018, with several CASA-related sustained findings of misconduct. Of note was a 2019 IA case with violations of the OBRD policy and violations related to the minimum amount of force necessary (evident

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<sup>57</sup> This same bystander indicated that he worked at the VA a short distance away. He was extremely helpful at the early stages of the encounter with the individual, even holding him in a hugging position and talking to him in a manner that was reflective of someone with experience working with veterans in crisis.

<sup>58</sup> We noted that, when interviewing the primary officer who used force, there came a point where it was obvious the IAFD investigator was asking relevant questions on a specific point in the event and the officer's own explanation was making him uncomfortable. Approximately 38 minutes into the interview, the APOA representative interrupted and asked to take a break, at which time the IAFD investigator asked the officer if he wanted a break, and in response the officer took the cue and asked for a break. The better response at the time would have been for the IAFD investigator to deny the APOA request, complete the line of questioning and then consider asking the officer if he needed a break. The break was only 2-3 minutes in length.

in this case as noted above), for which he received 10-hour and 70-hour suspensions, respectively. An additional entry for that incident included a violation of rules and regulations that listed a 160-hour suspension. For the use of an ECW and OC spray against this passively resistant person in this case, the officer was given a 16-hour suspension.

[IMR-15-06] (ECW Application[s] – Level 2 Use of Force)

The case facts for this case were more fully described in Paragraphs 24-36 of this report.

An APD officer responded to a disturbance call from a parent calling about her son being intoxicated, having a broken foot, being diagnosed as bipolar, and not taking his medication. Dispatch records indicated the individual was walking down the street and throwing rocks at vehicles, and that his mother wanted him taken to the hospital for evaluation. The officer located the male individual a short distance from his home and engaged him in conversation. From the onset, the officer's tone was calm and professional, and after talking to him for a period, the officer convinced him to start walking back to his house. It should be noted that during his follow-up IAFD/EFIT interview, the officer indicated that he wanted to get the individual to his home as a safe place.

Once at home, the male became increasingly agitated and boisterous and made several insulting comments and threats toward the officer. His mother exited the house and attempted to calm her son down, without success. He staggered dramatically as he walked (also he was in a boot apparently for his foot injury) and fell to the ground. The individual staggered close to the officer on a couple of occasions while being boisterous and was pushed back by the officer to maintain distance. The individual made several threatening comments and was insisting that the officer had killed one of his friends. It should be noted that the things being said appeared to be those of a rambling, highly agitated, and intoxicated person. The officer unholstered his ECW, held it in a low-ready position, and told the individual not to come close to him again or he would be Tased. The officer told the individual that he was done being nice, kept his distance, and at one point walked down the driveway toward the street. The individual followed the officer down the driveway, and at the base of the driveway, the officer deployed his ECW, but it did not have the desired effect. As the incident continued, the son's abrupt actions and demeanor continued. A second ECW deployment had the desired effect, and the individual was placed under arrest.

The subsequent IAFD/EFIT use of force investigation correctly identified the out-of-policy uses of force. An internal affairs investigation was initiated against the officer who used his ECW without a lawful objective and against a passively resistant person. The investigation outlined relevant points, inconsistencies, and discrepancies in the officer's perspective. The report stated, "The application of the ECW was not necessary because it lacked a lawful objective and with consideration to the scene, (the individual's) level of resistance, his intoxication level, distance, the involvement of (the individual's) mother and that, given that he was on private property at his residence, there were other reasonable alternatives to peacefully resolve this matter." The report found "this was not

the minimum amount of force based upon the lack of a lawful of objective and lack of reasonableness.”

The force investigation and officer interviews exhibited a significant increase in quality from past cases we reviewed. The conclusions matched the available evidence, and the interviews demonstrated much better preparation and organization.<sup>59</sup> The interviewer asked appropriate open-ended questions, followed up to ensure questions were answered, and had a professional and calm disposition.

An internal affairs investigation was initiated against the officer who deployed his ECW, for a total of five allegations of misconduct, including using the weapon against the individual without a lawful objective. Four of the five charges were sustained, and the officer received 48-hours (total) suspension time and a verbal reprimand.

[IMR-15-11] (Level 2 Use of Force – Takedown)

APD officers responded one morning in October 2021 to a request from Albuquerque Community Safety (ACS) for assistance in a parking lot regarding a young woman in potential mental crisis. Upon arrival, officers met with ACS personnel and other clinicians and were briefed about a young female who was uncommunicative and in apparent mental distress. Officers were advised the woman may be suicidal and attempted to walk in traffic prior to their arrival. Officers were advised by a clinician who was on-site that she had signed a Certificate of Evaluation (COE) to have the individual transported to a hospital for a mental health evaluation, pursuant to New Mexico law.

The officers approached the individual with a sensitive and appropriate demeanor and a plan to try and assist the individual. After the officers spent approximately 30 minutes speaking with the individual trying to elicit information from her, Albuquerque Fire and Rescue (AFR) eventually arrived on the scene and also began speaking with her. At a point, the APD officers backed off and let AFR take the lead in trying to assist the woman. While the officers were standing 10-15 feet away from AFR personnel and the woman, the woman got up off the ground and attempted to leave quickly. Realizing that the woman previously had tried to walk in and out of traffic before their arrival, the officers blocked the woman's path and eventually had to make physical contact with her in order to enforce the COE. The woman resisted the officers' physical contact and resisted being placed in handcuffs for her safety and transportation. While the two officers struggled to safely contain the woman, a decision was made to take her to the ground so she could be handcuffed. One officer stepped in front of the woman's legs, and all three individuals fell to the ground. Once on the ground, the woman's resistance

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<sup>59</sup> An area of concern we noted was that when interviewing the primary officer who used force, there came a point where it was obvious the IAFD investigator was asking relevant questions on a specific point in the event and the officer's explanation was making him uncomfortable. Approximately 38 minutes into the interview, the APOA representative interrupted and asked to take a break, at which time the IAFD investigator asked the officer if he wanted a break, and in response the officer took the cue and asked for a break. The better response at the time would have been for the IAFD investigator to deny the APOA request, complete the line of questioning and then consider asking the officer if he needed a break. The break was only 2-3 minutes in length.

dissipated, and she was handcuffed. Officers walked her to an ambulance by gently pushing/guiding her. When she began yelling and resisting, they stopped to talk to her to calm her down a bit, and then began walking with her again, finally getting her into the ambulance. Once the woman was in the ambulance, she began to sound like she was apologizing, and officers subsequently removed the handcuffs from her after she calmed down and could be secured on a stretcher. An ambulance transported her to the hospital for further psychiatric evaluation, and one officer followed the ambulance to the hospital in her patrol vehicle.

The responding sergeant was able to briefly visually inspect the woman before she was transported by the ambulance. The sergeant was able to canvass the scene and document the identities of various witnesses who were eventually interviewed by IAFD/EFIT investigators. At the hospital, the woman was eventually sedated. When APD/EFIT arrived and tried to communicate with her, she was largely uncommunicative, and she answered no questions. No evidence of a follow-up interview with the woman was provided to the monitoring team. Investigative documents, inclusive of chain of command reviews, failed to note this deficiency.

Other than this noted deficiency, the subsequent IAFD/EFIT investigation was thorough and objective. Interviews were obtained from various witnesses, all of which substantiated the appropriateness of the officers' actions in using the appropriate, minimal amount of force necessary to ensure this woman received the appropriate mental health evaluation and care.

#### [IMR-15-12] (Level 2 Use of Force – Takedown)

APD officers responded to a fast-food restaurant near dusk one early evening in September 2021 after receiving a call that a male was causing a disturbance and had assaulted an employee. After arriving, officers initially spoke with some employees to get details about the incident, and an employee pointed out the individual walking through the parking lot. Officers disengaged from the employees and called to the individual, and began questioning him about his behavior. When trying to verify the individual's identity, it became apparent that the individual was providing false information to police officers. After some time passed and officers could not convince the individual to provide accurate information, they advised the individual that he was going to be handcuffed and detained. At that point, the individual got up and began running through the restaurant's drive-thru lane and tripped and fell. When officers caught up to him, the individual began getting up and officers grabbed onto him and eventually attempted to handcuff him. When the handcuffing was resisted, two officers took the individual to the ground and handcuffed him. Immediately after the takedown, the individual began banging his head on the ground. Officers moved the individual so that he could no longer strike his head. Still, while officers were focused on protecting the individual's head, the individual was able to insert his legs inside a storm drain. The individual was able to squirm into it to the point that officers could not easily extract him. After some time passed and AFR arrived on the scene, the individual was successfully extracted from the storm drain opening and placed onto a stretcher, after some persuasion. The individual was eventually transported to a hospital for treatment.

Since two sergeants and a lieutenant were on the scene during this incident and had varying levels of participation, a supervisor from another command within APD responded to the scene for the initial review. After a determination was made that it was a Level 2 use of force, IAFD/EFIT responded to the scene and conducted an appropriate scene response, complete with canvassing and witness interviews. Investigators also went to the hospital, where they attempted to interview the individual. However, he refused to be interviewed. The IAFD/EFIT's follow-up investigation was thorough and objective in determining the officers' actions to be appropriate and constituting the minimum amount of force to be utilized in this situation.

[IMR-15-13] (Level 2 Use of Force – Takedown)

APD officers responded during overnight hours in November 2021 to a store after receiving a call from a private security company indicating that the store was being burglarized and security personnel were on-site observing the offender. Upon arrival, the security guard aided officers in pursuing and catching the burglar after he unloaded a significant amount of merchandise into a shopping cart and ran towards a gated corner of the parking lot. As the individual threw merchandise over the fence and attempted to scale the fence, both the security officer and APD officer were able to contact the individual physically. Upon trying to handcuff the individual, he resisted and the APD officer executed a take-down. The individual's resistance subsided enough after the take-down for the security officer and APD officer to handcuff the individual. A supervisor responded and appropriately determined that the use of force was a Level 2 use of force and IAFD was notified. As a result of a complaint of pain, the individual was transported to the hospital by ambulance.

IAFD responded to the scene and conducted an appropriate on-scene investigation, and also traveled to another location to conduct an interview with the male individual who was in the custody of another APD officer who had also responded to the scene of the commercial burglary. The subsequent IAFD/EFIT investigation was thorough and objective and determined that the officer who conducted the takedown of the individual utilized the appropriate, minimal amount of force necessary in arresting the burglar.

[IMR-15-14] (Level 2 Use of Force – Takedown / Force Causing Injury)

APD officers responded to a residence on an October 2021 afternoon after receiving a telephone alert about two sisters involved in a domestic dispute. Prior to arriving at the scene, officers (including one sergeant) met around the corner to discuss the information they had, including the propensity of violence, mental health conditions, and suicidal tendencies of one of the sisters. Accordingly, officers established a force array and discussed the roles they would take upon approach. Upon arrival and conducting a preliminary investigation, officers attempted to place one of the sisters under arrest for battery on a household member. When an officer grabbed the arm of the woman to stop her flight, the woman fell to the ground. Once on the ground, the woman started banging her head on the sidewalk and becoming extremely combative by kicking officers and resisting being handcuffed. After being handcuffed, the woman still attempted to kick

officers until her legs were restrained. Officers quickly placed a helmet on her head to protect her and utilized a passive restraint system to minimize her kicking. The woman could not walk on her own to the APD vehicle and had to be carried by four officers. The woman also spat at officers and bit one officer. Albuquerque Fire and Rescue (AFR) eventually arrived on the scene and transported the woman to the hospital. After sedation, the woman began to calm down. However, at times at the hospital, she continued to be abusive and offer resistance to the point that hospital staff had to utilize soft restraints and a spit mask.

A sergeant uninvolved in the incident responded to conduct the on-scene investigation and deemed the matter to be a Level 2 use of force. While there was some confusion as to whether or not it was a Level 2 use of force because of a takedown or a Level 2 use of force because low-level tactics were utilized that eventually resulted in injuries, the use of force was still appropriately classified as a Level 2 use of force. The rationale for the Level 2 determination could have been more clearly defined sooner in the investigative process.

When IAFD/EFIT responded to the hospital for their on-scene investigation, they made an appropriate decision to not attempt to interview the woman due to her sedated state and lack of movement and coherency. Unfortunately, there is no documented evidence that anyone attempted to contact this woman again for an interview until two months later (on the same date as the last IAFD/EFIT interview of the last APD witness). Additionally, the APD officer (with less than one-year of employment with APD) who completed a use of force narrative report with the least amount of details also had the shortest interview. In the view of the monitoring team, many of the scant details provided by this officer could have been elaborated upon in the interview but were not. While these details were not specifically addressed in supervisory and command reviews of the IAFD investigation, a number of other deficiencies on the part of the IAFD investigator were specifically called out and addressed in the supervisory review conducted by the chain of command.

Despite some of these shortcomings, the officers' use of force (consisting of empty hand control) was necessary and the minimal amount of force to overcome the individual's attempted flight and resisted handcuffing. The officers' approach, on-scene tactics (to include their preliminary investigation of the domestic violence allegations), and efforts to control the self-injurious behavior of the woman taken into custody were accentuated by their patience and professionalism throughout the ordeal (which lasted for several hours later at the hospital).

[IMR-15-15] (Level 2 Use of Force – Takedown)<sup>60</sup>

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<sup>60</sup> This case was reviewed as part of the monitoring team's initial assessments of EFIT assisted cases. We provided direct feedback to the EFIT Administrator. This case was among the first EFIT took part in at APD, so we expected a period of time for EFIT detectives to familiarize themselves with the operating environment.

APD officers were dispatched to a business establishment regarding a criminal trespass during which an individual had threatened to stab employees. They met with the store manager who wished to sign a criminal trespass complaint against the offender, and a description was provided. The officers were told the individual had just left the store, and as he exited, he also stole a soda. The officers located the individual outside the store. When initiating contact with the individual, they issued verbal commands for the individual to stop and that he was detained. The individual was unresponsive to the officers and continued to walk away from them. Officers caught up to him and told him he was not free to leave. They took control of his arms and stopped him from walking. He braced and tensed his arms, and a struggle ensued. At that point the officers were lawfully detaining him based on the complaint they were given by the store owner. The detainee began to resist, and he was taken to the ground where he continued to resist handcuffing. The officers were able to handcuff him without additional force. During the arrest, scrapes and abrasions were sustained by the arrestee. The officers maintained a professional demeanor and de-escalated their force once the arrestee was handcuffed.

Once the individual was in custody, he was seated in close proximity to an officer's patrol car, and first aid was summoned to the scene. Once the individual was medically cleared, the officers attempted to convince him to walk to the patrol vehicle, but he rambled and would not stand up. One officer alerted him that he would have to use "low-level control tactics" to get him to the car if he would not walk. The two officers then lifted him to a standing position and attempted to move him toward the vehicle. OBRD video showed the individual's feet briefly dragging at one point, but the monitoring team noted nothing inappropriate in the officers' response.<sup>61</sup> The officers took care with the individual when moving him to the patrol car, and there was no indication of any pain or discomfort with the individual occurred.

IAFD investigated Level 1 and Level 2 uses of force by each officer with the assistance and oversight of EFIT. The monitoring team reviewed the available reports and OBRDs and assessed the prevailing investigation into the use of force. The IAFD/EFIT investigation determined by a preponderance of the evidence the force used on the individual was within APD SOP. The monitoring team agrees with that finding. This investigation occurred at the earliest stage of the EFIT engagement with IAFD, and the quality of interviews was not as robust as we have seen in more recent cases. We noted the APOA representative during one officer's interview editorializing inappropriately.<sup>62</sup>

[IMR-15-16] (Level 2 Use of Force – Takedown)

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<sup>61</sup> We do note that the action may rise to a Level 1 use of force, not low-level control tactics, under certain circumstances. In past reporting periods we have called out instances in which officers dragged or carried suspects in a manner that was a reportable use of force.

<sup>62</sup> We know through our interactions with EFIT during this reporting period that this type of inappropriate conduct during interviews was noted by them as well. Since this interview, measures have been put into place to limit instances where APOA members editorialize or otherwise interrupt an IAFD interview. It is our understanding that but for a couple of instances, the conduct in interviews has gotten better over the past several months.

An APD officer was called to a residential street to a report of a male riding his bicycle in the area and making attempts to break into vehicles. CAD records show that a description was given of the male. Upon his arrival, the officer observed the individual inside a vehicle, throwing items to the ground, and glass could be seen on the ground indicating a break-in. From a distance, the officer announced himself and began to instruct the individual not to move and to show his hands. The individual initially stood in place, but then suddenly turned and ran to his bicycle to escape. The officer ran and quickly closed the distance. The individual got off the bicycle and attempted to run, but the officer took hold of him, and he stopped near a fence and went to the ground on his own power.

Over the next several minutes, the officer made attempts to take the individual into custody, while simultaneously calling for backup. The arrestee vacillated between calm and resisting, and the officer physically struggled with him to apply handcuffs. The officer had to utilize a takedown technique to control the individual at one point. After a couple of minutes of struggling, the officer was able to apply handcuffs, after which backup and a supervisor arrived at the scene.

The use of force was properly categorized as a Level 2 use of force by the on-scene supervisor. IAFD, overseen and supervised by EFIT, conducted the investigation into the use of force. The monitoring team reviewed the available investigative documentation and OBRDs to assess the appropriateness of the use of force and the quality of the investigation into this force. Based on our review, we determined that the officer used objectively reasonable force based on the totality of circumstances. His actions were proportional to the threat and the minimum amount of force necessary to effectuate the arrest. The ensuing investigation was at the earlier stages of EFIT's involvement with IAFD. We noted on the officer's OBRD that the suspect, while in the process of being handcuffed, called out asking the officer to get off his head (the arrestee was face down and the officer was at the head of his body). When the arrestee made this comment, the officer appeared to shift his body in response. In photos taken following the event, we also noted that, among the injuries the arrestee sustained during his arrest, was an obvious injury above his right eye. A follow-up interview had to be conducted to clarify this part of the encounter. The IAFD detective did a poor job clarifying the officer's positioning by comparing what the officer said against the available OBRD evidence.

Still, the investigation was otherwise thorough, and the investigative findings were appropriate. An internal affairs investigation was initiated against two backup officers for not activating their OBRDs according to APD policy, and both received written reprimands.<sup>63</sup> The monitoring team reviewed the EFIT closeout memo. One documented observation was that during an interview, the IAFD investigator passed a card containing a "Garrity Statement" to someone being interviewed. This was subsequently corrected, prior to being noted by the monitoring team.

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<sup>63</sup> The written reprimand was not issued to one of the two officers because he is no longer with the department.



[IMR-15-17] (Level 2 Use of Force – Takedown / and Multiple Other Uses of Force)

APD detectives assigned to the Auto Theft Unit observed a suspicious vehicle with a city-owned license plate. The vehicle was observed pulling into the parking lot of a commercial business, and a male and female were seen walking inside. Surveillance was set up on the vehicle in the parking lot, while the two individuals were surveilled on the inside of the business. They were observed to shoplift items by concealing them in separate backpacks. Inside, surveillance detectives alerted the detectives on the outside when the two individuals exited the establishment without paying. The male suspect ran ahead of the female and encountered a detective, who announced himself and held his duty weapon in a low-ready position. The male immediately turned around and began to run back toward the store's front door, but because the door did not immediately open the detective was able to catch him outside the store. The individual went to his knees on his own power, and when the detective took control of one of his arms, the individual attempted to stand. The officer had to take the arrestee to the ground and was able to handcuff him. The arrestee told the detective that he had a handgun in his backpack, which was removed from his back, and the weapon was retrieved.

At the same time, a different officer encountered the female and was detaining her when two officers (one of which was same officer who arrested the male) approached and assisted in taking the female into custody. She was uncooperative and resisted the officers' attempts to place her into handcuffs. Her combativeness caused one officer to fall to the ground, and an additional officer came to assist. Eventually, the officers were able to handcuff the female, and she was taken into custody.

The investigation was properly categorized as four (4) Level 1, and one (1) Level 2 uses of force by four (4) separate officers, which required an IAFD response. IAFD, under the assistance and oversight of EFIT, conducted a thorough investigation, and the investigative findings were appropriate. The interviews of officers were less organized than in interviews we have reviewed later in EFIT's engagement with IAFD.

Our review determined that the officers used objectively reasonable force based on the totality of circumstances. The actions taken by the officers were proportional to the threat they faced, the minimum amount of force necessary to effectuate the arrest, and consistent with APD policy and the CASA. The monitoring team reviewed the EFIT closeout memo. One notable observation was that IAFD failed to conduct a supervisory meeting or create an investigative plan, both violations of their IAFD/EFIT process narrative.

[IMR-15-18] (Level 2 Use of Force – Takedown)

APD was dispatched to a disturbance call at a shopping mall. Upon arrival, they were informed by the mall security that two individuals were vandalizing property in the mall and harassing merchants and patrons, including attempting to inappropriately touch female mall employees.

Officers encountered two juvenile individuals exiting the mall and attempting to leave the property. The officers announced that they were Albuquerque Police, and after a foot pursuit, the individuals stopped. One of the subjects was placed in handcuffs and was cooperative throughout the incident. The second juvenile refused to cooperate with the officers and resisted their efforts to put him in handcuffs. Throughout the encounter, the officers were calm and professional, clearly trying to encourage the cooperation of the individual so force would not be necessary. The individual continued to not cooperate as he was placed in handcuffs, and began to actively resist by pulling his arm from behind his back and bringing it in front of him. Officers performed an empty-hand takedown and placed the Individual into handcuffs.

The force was properly categorized as a Level 2 use of force and Level 1 resisted handcuffing, and IAFD, with the assistance and oversight of EFIT, conducted the investigation into the uses of force.

The investigation into the matter was thorough, and the investigative findings were appropriate, based on the totality of circumstances. Our review determined that the officers used objectively reasonable force based on the totality of circumstances. The actions taken by the officers were proportional to the threat they faced, the minimum amount of force necessary to effectuate the arrest, and consistent with APD policy and the CASA. Officers maintained their professionalism throughout the encounter and immediately de-escalated the force when appropriate.

[IMR-15-19] (Level 2 Use of Force – Takedown)

During daytime hours in July 2021, an APD officer was at a retail establishment conducting a fraud investigation when he was made aware by loss prevention personnel of a shoplifting incident taking place at the store. The officer and loss prevention personnel from the store monitored video surveillance of a male stealing firearm equipment. The officer called for a backup officer who arrived shortly before the officers and loss prevention personnel attempted to confront the suspect just outside the store's entrance. When confronting the suspect in an attempt to identify him and issue him a citation, the individual attempted to flee the officers once an officer touched his wrist and told him he was being detained. The two officers struggled to contain the arrestee in the doorway of the store. The officers and store personnel were able to grab onto his arms, legs, and waist, and he eventually fell to the ground with an officer, but not before he struck the other officer in the face. While on the ground, the suspect continued to struggle and resist being handcuffed. The officers were able to eventually overcome this resistance and handcuff the arrestee. The on-scene supervisor appropriately identified the Level 1 and Level 2 uses of force. After initially declining medical attention, the arrestee subsequently indicated his ankle hurt and he was transported to the hospital. The officer who was struck in the face declined medical attention.

This was one of the first joint IAFD/EFIT investigations. The joint team appropriately conducted its investigation into the uses of force in this matter. The uses of force were appropriately determined to be minimal, proportional, and reasonable based on the individual's attempted flight and active resistance to officer commands. The IAFD/EFIT

investigator and the supervisory/command review of the matter noted that one officer's use of force narrative was exemplary and the other officer's report was deficient in areas. The clarifying interviews appropriately addressed any material matters in the investigation.

[IMR-15-20] (Level 2 Use of Force – Takedown / Strikes / and Multiple Other Uses of Force)

APD officers were dispatched to a call for service during which a woman reported her purse had been stolen from her hotel room. Officers failed to respond, and the documents we reviewed indicated that the Chief of Police requested that the Auto Unit investigate the incident. The victim provided Auto Unit detectives with the circumstances surrounding the theft of her purse, descriptions of a suspect, and the vehicle he was driving. She also told detectives her purse had a GPS tracking device in it and that the device was locating at a motel. Detectives responded to that motel and maintained contact with the victim, in the event the location of the device changed. Detectives observed the vehicle described by the victim and indicators that stolen property was inside. They also observed a male matching the description they were provided enter the vehicle and depart the motel. The detectives began mobile surveillance and followed the vehicle to a self-serve car wash. The victim verified that her GPS tracker was showing its location at that car wash and the detectives created a surveillance perimeter. The individual was seen in a car wash bay and an Auto Unit supervisor instructed the detectives to assemble a force array. Six detectives quickly approached the suspect with multiple force options deployed (ECW, handgun, 40mm). As two detectives traveled through the washing bay where the suspect was, he sprayed water in the direction of the detectives and walked backward into an open area. The detectives confronted the individual in a semi-circle and were all shouting warnings and orders at him at the same time.

The individual was not following commands and appeared to feign confusion and a medical situation. He suddenly moved toward his vehicle (the detectives had him isolated from the vehicle), and the detectives went hands-on to take him into custody. A lengthy physical struggle ensued, as the individual resisted arrest and multiple Level 2 uses of force (take down, leg strike, fist strike, empty hand control techniques) by multiple officers occurred. The detectives eventually overcame the resistance, and the individual was handcuffed. Force used by the detectives de-escalated at that point.

Because of investigative, supervisory, and command level failures in IAFD, this investigation was ultimately completed by EFIT. We reviewed the EFIT investigation and found it was thorough and the findings were appropriate and correlated to the available evidence. There were multiple Level 2 and Level 1 uses of force by multiple Auto Theft Unit detectives. EFIT determined the case was not in policy due to a failure to de-escalate the situation properly. That said, the actual uses of force were not out of policy, as the suspect physically and violently resisted a lawful arrest.

Based on our review, we believe the event is summed up in language within the EFIT investigation: "There is little evidence that the officers utilized any de-escalation

techniques. It is suggested that their commanding tone, volume, and manner likely caused the situation rather than ending it.” An internal affairs investigation was initiated against the Auto Theft Unit detectives for de-escalation failures and OBRD violations against two detectives. In our opinion, the actions of the detectives were effective from an investigative perspective. Still, the handling of the arrest was disorganized and unprofessional, reflecting poorly on the supervisor on scene. We agree with EFIT’s determination regarding the lack of de-escalation and how it contributed to the need to use force. We have seen multiple examples of professional demeanor by officers during this monitoring period, and this incident stood out as a departure from that proper conduct.

#### Monitor’s Observations/Concerns: Escape Risk Evaluation and Response

In previous reporting periods (including IMR-14), the monitoring team was explicit in calling out the failure of APD at many levels to exercise the appropriate levels of care of in-custody individuals. The cases reviewed during this monitoring period reflected a change in these processes. While the monitoring team did not review any such cases in its random selection of cases that provided exemplars of this problem, other indicators viewed by the monitoring team indicate APD continues to struggle with prisoners escaping custody, which leads to additional uses of force or related injuries. One such indicator observed during this monitoring period involved a prisoner in the custody of APD officers at a hospital who escaped custody during an escorted use of a bathroom. The prisoner escaped into the ceiling above the bathroom and later fell from the ceiling into another area of the hospital.

The monitoring team has not noted any concrete attempts by APD to address these prisoner escape issues (especially at hospitals). To date, the lack of training bulletins on this vulnerability and the ineffectiveness of verbal reprimands are cumulatively becoming an increased risk for APD and the City. In IMR-16, the monitoring team will continue their assessments as they relate to training opportunities to address prisoner escapes. Such escapes expose people in APD custody to additional uses of force or exposure to injuries, and may obviously present an unnecessary risk to the public. We recommend that APD should review data from such escape cases as part of a needs assessment to develop training on this topic.

Another area of concern related to IAFD is the interview of persons who have experienced uses of force by APD officers. Interviews of unconscious or heavily sedated persons in a hospital do not count as interviews. Likewise, failure to circle back to interview such persons at a later time is also unacceptable, especially when those persons remain in the hospital for more than 24-hours or are subsequently incarcerated in a correctional facility. APD should develop objective, actionable criteria for interviewing persons who are medically unable to be interviewed post-force.

#### Compliance Findings

Based on our review, we have determined that the compliance levels are continued for Paragraphs 60 through 77.

#### **4.7.47 Assessing Compliance with Paragraph 60: IAD Force Review**

Paragraph 60 stipulates that:

**“The Force Investigation Section of the Internal Affairs Division shall respond to the scene and conduct investigations of Level 2 and Level 3 uses of force, uses of force indicating apparent criminal conduct by an officer, uses of force by APD personnel of a rank higher than sergeant, or uses of force reassigned to the Internal Affairs Division by the Chief. In cases where an investigator in the Force Investigation Section initiates a Level 2 or Level 3 use of force investigation and identifies indications of apparent criminal conduct, the Section shall refer the use of force to an investigator in the Section, with no involvement in the initial administrative investigation into the Level 2 or 3 use of force, to conduct a criminal investigation. The criminal investigation shall remain separate from and independent of any administrative investigation. In instances where the Multi-Agency Task Force is conducting the criminal investigation of a use of force, the Internal Affairs Division shall conduct the administrative investigation.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### ***Recommendations for Paragraph 60:***

***4.7.47a: APD should select a larger random sample of similar cases and review each for indicators of the need to improve policy, training, supervision or other corrective processes.***

#### **4.7.48 Assessing Compliance with Paragraph 61**

Paragraph 61 stipulates:

**“The Force Investigation Section of the Internal Affairs Division will be responsible for conducting both criminal and administrative investigations, except as stated in Paragraph 60. The Force Investigation Section of the Internal Affairs Division shall include sufficient personnel who are specially trained in both criminal and administrative investigations.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

***Recommendation for Paragraph 61:***

***4.7.48a: FIS and IAFD should assess extant training levels of FIS and ensure additional training, supervision or other corrective process are applied.***

**4.7.49 Assessing Compliance with Paragraph 62: Revision of Internal Affairs Manual**

Paragraph 62 stipulates:

“Within six months from the Operational Date, APD shall revise the Internal Affairs Division manual to include the following:

- a) definitions of all relevant terms;
- b) procedures on report writing;
- c) procedures for collecting and processing evidence;
- d) procedures to ensure appropriate separation of criminal and administrative investigations in the event of compelled subject officer statements;
- e) procedures for consulting with the District Attorney’s Office or the USAO, as appropriate, including ensuring that administrative investigations are not unnecessarily delayed while a criminal investigation is pending;
- f) scene management procedures; and
- g) management procedures.”

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

***Recommendation for Paragraph 62:***

***4.7.49a: APD should conduct an internal assessment of the IAFD policy and process to ensure the requirements of Paragraph 62 are contained in policy, training and practice in the operations of IAPS and IAFD.***

**4.7.50 Assessing Compliance with Paragraph 63: Staffing IAD**

Paragraph 63 stipulates:

“Within 39 months from the Operational Date, APD shall ensure that there are sufficient trained personnel assigned to the Internal Affairs Division and Force

Investigation Section to fulfill the requirements of this Agreement. APD shall ensure that all Level 2 and Level 3 uses of force are investigated fully and fairly by individuals with appropriate expertise, independence, and investigative skills so that uses of force that are contrary to law or policy are identified and appropriately resolved; that policy, training, equipment, or tactical deficiencies related to the use of force are identified and corrected; and that investigations of sufficient quality are conducted so that officers can be held accountable, if necessary. At the discretion of the Chief, APD may hire and retain personnel, or reassign current APD employees, with sufficient expertise and skills to the Internal Affairs Division or Force Investigation Section.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### ***Recommendation for Paragraph 63:***

***4.7.50a: IAFD command should redouble its efforts to ensure existing policy, training and practice conform to the specific requirements of Paragraph 63.***

### **4.7.51 Assessing Compliance with Paragraph 64: Training Force Division Personnel**

Paragraph 64 stipulates:

“Before performing force investigations, Force Investigation Section personnel shall receive force investigation training that includes, at a minimum, the following areas: force investigation procedures; call-out and investigative protocols; proper roles of on-scene counterparts such as crime scene technicians, the Office of the Medical Investigator, District Attorney staff, the Multi-Agency Task Force, City Attorney staff, and Civilian Police Oversight Agency staff; and investigative equipment and techniques. Force Investigation Section personnel shall also receive force investigation annual in-service training.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

***Recommendation for Paragraph 4.7.51a: IAFD should ensure that current policy and process, and the training provided relative to acceptable policy and process, are reflected in the day-to-day operations of the Force Investigation Section.***

**4.7.52 Assessing Compliance with Paragraph 65: Referral of Force Investigations to MATF**

Paragraph 65 stipulates:

**“Where appropriate to ensure the fact and appearance of impartiality and with the authorization of the Chief, APD may refer a serious use of force indicating apparent criminal conduct by an officer to the Multi-Agency Task Force for criminal investigation.”**

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

**4.7.53 Assessing Compliance with Paragraph 66: MATF Assistance to IAD**

Paragraph 66 stipulates:

**“To ensure that criminal and administrative investigations remain separate, APD’s Violent Crimes Section may support the Force Investigation Section of the Internal Affairs Division or the Multi-Agency Task Force in the investigation of any Level 2 or Level 3 use of force, as defined by this Agreement, including critical firearm discharges, in-custody deaths, or police-initiated actions in which a death or serious physical injury occurs.”**

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

**4.7.54 Assessing Compliance with Paragraph 67: MATF Assistance to IAD**

Paragraph 67 stipulates:

**“The Chief shall notify and consult with the District Attorney’s Office, the Federal Bureau of Investigation,**



and/or the USAO, as appropriate, regarding any use of force indicating apparent criminal conduct by an officer or evidence of criminal conduct by an officer discovered during a misconduct investigation.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.55 Assessing Compliance with Paragraph 68: Consultation with External Agencies and Compelled Statements

“If APD initiates a criminal investigation, or where APD requests a criminal prosecution, the Force Investigation Section will delay any compelled interview of the target officer(s) pending consultation with the District Attorney’s Office or the USAO, consistent with Paragraph 186. No other part of the administrative investigation shall be held in abeyance unless specifically authorized by the Chief in consultation with the agency conducting the criminal investigation.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.56 Assessing Compliance with Paragraph 69: IAD Responsibilities in Serious Uses of Force

Paragraph 69 stipulates:

- “In conducting its investigations of Level 2 or Level 3 uses of force, as defined in this Agreement, the Force Investigation Section shall:
- a) respond to the scene and consult with the on-scene supervisor to ensure that all personnel and subject(s) of use of force have been examined for injuries, that the use of force has been classified according to APD’s classification procedures, that subject(s) have been interviewed for complaints of pain after advising the subject(s) of his or her rights, and that all officers and/or subject(s) have received medical attention, if applicable;
  - b) ensure that all evidence to establish material facts related to the use of force, including but not limited to audio and video recordings, photographs, and other

- documentation of injuries or the absence of injuries is collected;
- c) ensure that a canvass for, and interview of, witnesses is conducted. In addition, witnesses should be encouraged to provide and sign a written statement in their own words;
  - d) ensure, consistent with applicable law, that all officers witnessing a Level 2 or Level 3 use of force by another officer provide a use of force narrative of the facts leading to the use of force;
  - e) provide a written admonishment to involved and witness officer(s) to the use of force that they are not to speak about the force incident with anyone until they are interviewed by the investigator of the Force Investigation Section;
  - f) conduct only one-on-one interviews with involved and witness officers;
  - g) review all Use of Force Reports to ensure that these statements include the information required by this Agreement and APD policy;
  - h) ensure that all Use of Force Reports identify all officers who were involved in the incident, witnessed the incident, or were on the scene when it occurred;
  - i) conduct investigations in a rigorous manner designed to determine the facts and, when conducting interviews, avoid asking leading questions and never ask officers or other witnesses any questions that may suggest legal justifications for the officers' conduct;
  - j) record all interviews;
  - k) consider all relevant evidence, including circumstantial, direct, and physical evidence, as appropriate, and make credibility determinations, if feasible;
  - l) make all reasonable efforts to resolve material inconsistencies between the officer, subject, and witness statements, as well as inconsistencies between the level of force described by the officer and any injuries to personnel or subjects; and
  - m) train all Internal Affairs Division force investigators on the factors to consider when evaluating credibility, incorporating credibility instructions provided to jurors.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

## ***Recommendation for Paragraphs 69:***

**4.7.56a: APD should review carefully the monitor’s finding regarding Paragraph 69 of the CASA and ensure that all relevant sections of the Paragraph are included in IAFD practice. Specific revisions to policy should reflect any failure points of policy, practice, supervision or command oversight.**

#### **4.7.57 Assessing Compliance with Paragraph 70: Use of Force Data Reports**

Paragraph 70 stipulates:

**“The Force Investigation Section shall complete an initial Use of Force Data Report through the chain of command to the Chief as soon as possible, but in no circumstances later than 24 hours after learning of the use of force.”**

### **Methodology**

For IMR-15, members of the monitoring team requested a random sample of fifteen (15) Level 2 and Level 3 uses of force that were investigated by IAFD with assistance and oversight by EFIT. The monitoring team reviewed those cases to assess the appropriateness of force used by APD officers and to assess the quality of investigations into the force. During those assessments the monitoring team also checked compliance with the terms of Paragraph 70.

APD is required to submit the initial Use of Force Data Report through its BlueTeam system within 24 hours of the event. The fifteen use of force Insert events the monitoring team reviewed for this reporting period, had seventeen distinct use of force case numbers, and a BlueTeam entry was available for each case. In each of the cases we reviewed a BlueTeam entry was made within 24 hours for a 100 percent compliance rate based on our random sample.

APD also provided the monitoring team with a Paragraph 70 self-assessment report<sup>64</sup> for the entire IMR-15 monitoring period. The documentation we reviewed contained 199 reportable uses of force, and we checked to ensure each had a 24-hour notification through BlueTeam. The data revealed only seven instances out of 199 where the 24-hour notification requirement was not met, for a 97 percent compliance rate. The monitoring team cross-referenced the BlueTeam entries from the seventeen cases we reviewed and found that each was properly captured in the APD self-assessment.

Based on these data we have determined that APD has achieved operational compliance with Paragraph 70 during this reporting period.

### **Results**

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<sup>64</sup> APD has the Performance Metrics Unit creating a compliance Scorecard for Paragraph 70 that will track the information contained in the self-assessment report (we reviewed) in future monitoring periods.

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

#### **4.7.58 Assessing Compliance with Paragraph 71: IAPS Investigative Timelines**

Paragraph 71 stipulates:

**“The Force Investigation Section shall complete Level 2 or Level 3 administrative investigations within three months after learning of the use of force. Any request for an extension to this time limit must be approved by the commanding officer of the Force Investigation Section through consultation with the Chief or by the Chief. At the conclusion of each use of force investigation, the Force Investigation Section shall prepare an investigation report. The report shall include:**

- a) a narrative description of the incident, including a precise description of the evidence that either justifies or fails to justify the officer’s conduct based on the Force Investigation Section’s independent review of the facts and circumstances of the incident;**
- b) documentation of all evidence that was gathered, including names, phone numbers, addresses of witnesses to the incident, and all underlying Use of Force Data Reports. In situations in which there are no known witnesses, the report shall specifically state this fact. In situations in which witnesses were present but circumstances prevented the author of the report from determining the identification, phone number, or address of those witnesses, the report shall state the reasons why. The report should also include all available identifying information for anyone who refuses to provide a statement;**
- c) the names of all other APD officers or employees witnessing the use of force;**
- d) the Force Investigation Section’s narrative evaluating the use of force, based on the evidence gathered, including a determination of whether the officer’s actions complied with APD policy and state and federal law; and an assessment of the incident for tactical and training implications, including whether the use of force could have been avoided through the use of de-escalation techniques or lesser force options;**
- e) if a weapon was used by an officer, documentation that the officer’s certification and training for the weapon were current at the time of the incident; and**
- f) the complete disciplinary history of the target officers involved in the use of force.**

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### ***Recommendations for Paragraph 71:***

***4.7.58a: APD should conduct a detailed performance review of IAPS process and practice, and revise policy, training and supervision processes to control IAPS operations until IAPS meets compliance standards for paragraph 71.***

### **4.7.59 Assessing Compliance with Paragraph 72: FIS Report Review**

Paragraph 72 stipulates:

**“Upon completion of the Force Investigation Section investigation report, the Force Investigation Section investigator shall forward the report through his or her chain of command to the commanding officer of the Internal Affairs Division. The Internal Affairs Division commanding officer shall review the report to ensure that it is complete and that, for administrative investigations, the findings are supported using the preponderance of the evidence standard. The Internal Affairs Division commanding officer shall order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of the findings.**

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### ***Recommendation for Paragraph 72:***

***4.7.59a: APD should conduct a detailed performance review of IAPS process and practice, and revise policy, training, and supervision processes to control IAPS operations until IAPS meets operational compliance standards for paragraph 71.***

### **4.7.60 Compliance with Paragraph 73: IAFD and IAPS Findings Not Supported by Preponderance of the Evidence**

Paragraph 73 stipulates:

**“For administrative investigations, where the findings of**

the Force Investigation Section investigation are not supported by a preponderance of the evidence, the Internal Affairs Division commanding officer shall document the reasons for this determination and shall include this documentation as an addendum to the original investigation report. The commanding officer of the Internal Affairs Division shall take appropriate action to address any inadequately supported determination and any investigative deficiencies that led to it. The Internal Affairs Division commanding officer shall be responsible for the accuracy and completeness of investigation reports prepared by the Internal Affairs Division.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### Recommendation for Paragraph 73:

***4.7.60a: APD should conduct a detailed performance review of IAFD and IAPS process and practice, and revise policy, training, and supervision processes to control IAFD and IAPS operations until IAPS meets operational compliance standards for paragraph 73.***

### 4.7.61 Assessing Compliance with Paragraph 74: FIS Quality Control

Paragraph 74 stipulates:

“Where a member of the Force Investigation Section repeatedly conducts deficient force investigations, the member shall receive the appropriate corrective and/or disciplinary action, including training or removal from the Force Investigation Section in accordance with performance evaluation procedures and consistent with any existing collective bargaining agreements, personnel rules, Labor Management Relations Ordinance, Merit System Ordinance, regulations, or administrative rules.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### Recommendations for Paragraph 74:

***4.7.61a: APD should conduct a detailed performance review of IAFD and IAPS process and practice, and revise policy, training and supervision processes to control IAFD and IAPS operations until IAPS meets operational compliance standards for paragraph 74.***

**4.7.62 Assessing Compliance with Paragraph 75: IAD Quality Control**

Paragraph 75 stipulates:

“When the commanding officer of the Internal Affairs Division determines that the force investigation is complete and the findings are supported by the evidence, the investigation file shall be forwarded to the Force Review Board with a copy to the Chief.”

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

***Recommendations for Paragraph 75:***

***4.7.62a: APD should conduct a detailed performance review of IAFD and IAPS process and practice, and revise policy, training and supervision processes to control IAFD and IAPS operations until IAPS meets operational compliance standards for paragraph 75.***

**4.7.63 Assessing Compliance with Paragraph 76: Force Investigations by MATF or FBI**

Paragraph 76 stipulates:

“At the discretion of the Chief, a force investigation may be assigned or re- assigned for investigation to the Multi-Agency Task Force or the Federal Bureau of Investigations or may be returned to the Force Investigations Section for further investigation or analysis. This assignment or re-assignment shall be confirmed in writing.”

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

**4.7.64 Assessing Compliance with Paragraph 77: Discipline on Sustained Investigations**

Paragraph 77 stipulates:

**“Where, after an administrative force investigation, a use of force is found to violate policy, the Chief shall direct and ensure appropriate discipline and/or corrective action. Where a force investigation indicates apparent criminal conduct by an officer, the Chief shall ensure that the Internal Affairs Division or the Multi-Agency Task Force consults with the District Attorney’s Office or the USAO, as appropriate. The Chief need not delay the imposition of discipline until the outcome of the criminal investigation. In use of force investigations, where the incident indicates policy, training, tactical, or equipment concerns, the Chief shall ensure that necessary training is delivered and that policy, tactical, or equipment concerns are resolved.”**

## **Results**

Please refer to the discussion on discipline found in paragraphs 201-202.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### ***Recommendation for Paragraph 77:***

***4.7.64a: APD should carefully review the recommendations of Paragraphs 201 and 202, below, and develop a coherent strategy to improve proactive measures to ensure conformance with extant APD policies related to officers’ use of force modalities.***

### **4.7.65 Assessing Compliance with Paragraph 78: Force Review Board Responsibilities**

Paragraph 78 stipulates that:

**“APD shall develop and implement a Force Review Board to review Level 2 and Level 3 uses of force. The Force Review Board shall be comprised of at least the following members: Deputy Chief of the Administrative Support Bureau, Deputy Chief of the Field Services Bureau, the Deputy Chief of the Investigative Bureau, a Field Services Commander, the Academy Division Commander, and the Legal Advisor. The Force Review Board shall conduct timely, comprehensive, and reliable reviews of Level 2 and Level 3 use of force investigations. The Force Review Board shall:**

**a) review each use of force investigation completed by the Force Investigation Section within 30 days of**



receiving the investigation report to ensure that it is complete and, for administrative investigations, that the findings are supported by a preponderance of the evidence;

b) hear the case presentation from the lead investigator and discuss the case as necessary with the investigator to gain a full understanding of the facts of the incident. The officer(s) who used the force subject to investigation, or who are otherwise the subject(s) of the Internal Affairs Division investigation, shall not be present;

c) order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of the force investigation findings. For administrative investigations, where the findings are not supported by a preponderance of the evidence, the Force Review Board shall document the reasons for this determination, which shall be included as an addendum to the original force investigation, including the specific evidence or analysis supporting their conclusions;

d) determine whether the use of force violated APD policy. If the use of force violated APD policy, the Force Review Board shall refer it to the Chief for appropriate disciplinary and/or corrective action;

e) determine whether the incident raises policy, training, equipment, or tactical concerns, and refer such incidents to the appropriate unit within APD to ensure the concerns are resolved;

f) document its findings and recommendations in a Force Review Board Report within 45 days of receiving the completed use of force investigation and within 15 days of the Force Review Board case presentation; and

g) review and analyze use of force data, on at least a quarterly basis, to determine significant trends and to identify and correct deficiencies revealed by this analysis.“

## **Methodology**

As we also noted in IMR-14, the monitoring team continued to see strong attendance and engagement by the Force Review Board (FRB) members during this monitoring period. As we document later, the use of force cases presented of late have been those that occurred since the External Force Investigation Team (EFIT) began assisting and overseeing IAFD's activities in July 2021, which has had an impact on the FRB. We have noted the good quality of discussions in FRB meetings in past monitor's reports, and that remained stable during this monitoring period. We did note that the degree of discussion has changed, i.e. there is a more limited amount of time spent addressing misconduct and

investigative failures, which allows for a more efficient movement through meeting agendas. We attribute this principally to higher levels of confidence the FRB has in findings made by IAFD, since EFIT now assists with and supervises these cases. Referrals to address policy, supervision, tactics, equipment, and training deficiencies also continued throughout IMR-15, but at a lesser rate than in the past.<sup>65</sup> In the past, the FRB was regularly required to make requests for internal affairs investigations for misconduct. The monitoring team requested data for any Internal Affairs referrals the FRB made during the IMR-15 monitoring period and learned that none occurred.<sup>66</sup> Again, we attribute this dramatic change to the fact that misconduct is being identified and referred during the force investigations, and the key contributor is most likely the assistance and oversight by EFIT. In IMR-14 we stated the following:

“...the extent to which the FRB continues identifying issues missed by IAFD investigators, and the fact that FRB must be the primary driver of accountability, indicate a lack of performance at lower levels...FRB was designed as an early warning system. If other members of the organization are unwilling to respond to FRB’s “alarms,” unable to consider carefully and clearly the oversight of those lapses and the issues creating those lapses, APD will continue to be an agency that reacts to the monitor’s findings, and never “gets out in front” of developing issues related to failures to performance.”

Hopefully, FRB executives now see and feel the benefits of the higher quality investigations they received during this monitoring period. We have commented several times in the past that the key function of the FRB should not be to make internal affairs referrals, but until now that has been unavoidable. When investigative findings are truly reliable, and misconduct is properly identified and referred for discipline prior to a case reaching the FRB, efficiencies are gained throughout the system of accountability. To be clear, the responsibility to sustain this trend rests squarely with the top echelon of APD. EFIT’s day-to-day influence over IAFD is incontrovertible, so when the transition occurs back to APD supervising IAFD alone, without EFIT, commitment to current standards and the executive-level resolve to ensure sustainability of those standards will be tested.

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<sup>65</sup> We encourage APD’s FRB Chairperson to examine the present rate of non-IA referrals against historical rates of referrals for policy, supervision, tactics, and training to determine why referral rates are declining. For instance, are referrals occurring earlier in the oversight process, reducing the need for FRB intervention? The FRB must guard against complacency in this area, since even in cases where IA cases were generated pre-FRB, underlying referrals for policy, training, supervision and tactics still have to be considered by the FRB if not previously addressed.

<sup>66</sup> The monitoring team reviewed a random sample of Level 2 and 3 uses of force and noted several examples of misconduct being referred during those investigations. In the past, the monitoring team called out numerous examples of missed policy violations during our use of force case reviews, but none were noted during this monitoring period.

Operational compliance with Paragraph 78 will still take time to accomplish. While the FRB has shown consistency over the past three reporting periods, the true test will be field performance and the attitudes first-line supervisors have toward accountability. We reiterate the advice we have been giving APD for years, now: achieving quality supervision at the front-line level is the key to CASA compliance with the CASA's use of force provisions.

In IMR-14 we identified a concern regarding a new backlog of more than 660 IAFD investigations of Level 2 and Level 3 uses of force, cases which originate as far back as January 2020, and the cascading impact this backlog will have on the FRB. In past Monitor's reports, we provided perspective and technical assistance to help APD deal with that growing risk.<sup>67</sup> The backlog of use of force cases cannot be ignored, and at the time of the writing of this report, we note that an additional Stipulated Order has been submitted to increase the scope of EFIT's responsibilities under which EFIT will conduct primary or follow up investigations into backlogged use of force cases. Prior to the close of the IMR-14 reporting period, we learned that the APD was preparing a PINS memo for the parties to consider that would address the expanding list of cases that the FRB will be responsible to review from the backlog. At the close of this monitoring period a final draft of the PINS memo has not been submitted for consideration.<sup>68</sup>

We continue to be encouraged with the performance of FRB representatives during meetings we attended.<sup>69</sup> Many of the provisions outlined in Paragraph 78 are now being achieved for cases the FRB reviews. In IMR-14 we stated:

“We cannot stress enough the importance of the top executives of APD taking advantage of this moment and taking purposeful steps to provide for an easily predictable increase in the number of required case reviews. APD should be forward thinking and should build management and executive systems that routinely assess how to best position itself for operational compliance determinations across many CASA paragraphs.”

We continued by outlining three steps that APD should be working toward. The following represent the steps we noted in IMR-14 and our assessment of the current position of APD:

- (1) *Complete and sustain CASA-centric use of force training* – As we document later, APD took a substantial step forward in its CASA-centric

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<sup>67</sup> The monitoring team has met continually with APD representatives during site visits and via Zoom or telephone. We have called out this compliance threat that will impede operational compliance for the past several reporting periods.

<sup>68</sup> The monitoring team confirmed with an APD Deputy Chief that the PINS memo was originally submitted to the parties in November 2021. Additional meetings occurred through January 2022 regarding the methodology for approaching FRB responsibilities toward backlog cases. We were told that a PINS memo that addresses this issue will be submitted during the IMR-16 reporting period.

<sup>69</sup> Beginning in 2020, APD began holding FRB meetings remotely which allowed participants to attend even during COVID. While most on-site members are now attending in person, APD continues the practice of remote attendance.

use of force training (See Paragraphs 86-88). A great deal of effort went into the training requirements throughout the year 2021. Supervisory use of force training remains incomplete; however, we feel that the academy is currently taking the steps necessary to meaningfully address those requirements by the end of the IMR-16 or beginning of the IMR-17 monitoring period. That said, APD must remain vigilant in its effort to meet its routine use of force training requirements in order to remain compliant with the CASA.

- (2) *Ensure IAFD and IAPS continue to be properly staffed, trained, and supervised to complete reliable investigations in a timely manner* – EFIT's influence over IAFD operations has been obvious throughout the IMR-15 monitoring period. In our regular meetings with EFIT and IAFD, issues with supervisory oversight within IAFD, personnel turnover in IAFD, and maintaining staffing levels are perpetual concerns. This is a critical component to address for the future of APD's compliance efforts and requires regular executive-level engagement.
- (3) *The FRB case review list must be reduced to a level that ensures APD is capable of hearing cases in a timely manner* – APD will provide the parties with a proposal to address cases that emerge from EFIT's investigations of backlogged use of force incidents. The status of their proposal will be reported further in the next reporting period. However, contemporary cases (since the EFIT was initiated) are being heard in a much timelier manner. However, the frequency of meetings and number of cases heard at each meeting must increase immediately, or the FRB will unquestionably encounter a backlog of its own cases that it cannot overcome.

The following paragraphs represent additional findings related to Paragraph 78.

As with other reporting periods, the monitoring team provided perspective, feedback, and technical assistance to APD personnel responsible for the tasks associated with the FRB. During our November 2021 site visit and throughout the reporting period, monitoring team members attended FRB meetings to assess the quality of case reviews. We also reviewed files of cases heard by the FRB, ledgers, and other documents related to the FRB. Paragraph 78 states, "The Force Review Board shall conduct timely, comprehensive and reliable reviews of Level 2 and Level 3 use of force investigations."<sup>70</sup> As we have noted in the past, timely feedback is key to remediating performance and misconduct, and legitimate supervision and accountability will eventually influence the organizational culture.

In past monitor's reports we commented how the Performance Metrics Unit (PMU) skill set can be leveraged to assist needs across the organization. During this monitoring period we observed APD leverage PMU's capabilities to benefit the Force Review Board (FRB), specifically how it captures votes as to the appropriateness of force and

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<sup>70</sup> The FRB also reviews all tactical specialized unit deployments as per Paragraph 99.

investigations into that force when cases are presented to them. In past monitoring periods, we have called attention to the way the FRB assesses types of force (many times multiple types and applications) and officers (many times multiple officers) within each case, since the FRB is charged with the responsibility of assessing each force application by each officer within an incident. It was challenging for FRB administrative staff to untangle events when voting occurred during FRB meetings. PMU worked with FRB representatives and were able to devise a way that FRB members can electronically cast votes for each force application within an incident. They accomplish the task by each voting member using an application on their phones to cast votes for each FRB requirement in real-time. This began as a pilot during IMR-15 and remained as the voting protocol through the end of the monitoring period. This approach to ensuring FRB voting met APD's requirements and directly addressed a concern called out by the monitoring team. It will likely increase the reliability of voting while also creating data collection efficiencies for APD.

The FRB is required to conduct timely, comprehensive, and reliable reviews of all tactical deployments, a 10 percent sample of all Level 2 uses of force, and all Level 3 uses of force. The FRB meetings continue to be very well attended by top executives of the department, representatives of City Legal, the CPOA, DOJ, and relevant subject matter experts and case presenters from different areas of the organization. The meetings generally last 2-3 hours, during which 1-4 cases are heard.<sup>71</sup>

The FRB administrator documents referrals that are generated during meetings, assigns deadlines for their completion, and tracks them until they are considered closed by the FRB. Meetings have standard and professional opening comments, discussion over past referrals, and when necessary, new due dates are assigned for referrals that are still pending. The monitoring team was provided ledgers for cases heard by the FRB between August 1, 2021, and January 31, 2022. The meetings held during this monitoring period generated ten separate referrals<sup>72</sup> that were sent out for follow-up by the relevant organizational units. For comparison, during the IMR-14 reporting period, 52 referrals were made by the FRB, so there was an 81 percent decrease during the IMR-15 monitoring period.<sup>73</sup>

In prior monitor's reports, we commented that for APD to reliably meet their requirements pertaining to Paragraph 78, they needed to immediately course correct and increase the number of FRB meetings. During the IMR-15 reporting period, the FRB held 21 separate

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<sup>71</sup> Understandably, more complex cases like Level 3 uses of force can take an entire meeting to be heard, especially when those cases have multiple officers and/or issues of misconduct that are discussed during deliberations. Generally, tactical activation cases take the least amount of time for the FRB to hear. In data the monitoring team was provided, we noted a few cancelled meetings due to an exigent OIS (1), holidays (3), and a Federal Court hearing (1). Adjustments or realignment dates were not added to the calendar to account for these missed FRB meetings.

<sup>72</sup> For policy, tactical, supervision or training issues.

<sup>73</sup> The decreased percentage in referrals alone is not an indicator of less diligence in reviewing cases but should be examined by the FRB Chairperson. There was a decrease in the number of cases heard, and an increase in misconduct cases referred prior to cases reaching the FRB, and both of those variables would contribute to an overall decrease in the percentage of FRB referrals. However, this statistic warrants examination on the part of APD.

and distinct weekly meetings, constituting a 32 percent decrease in meetings over the prior (IMR-14) reporting period, which was 31. The total number of events/cases heard during this monitoring period was 55, ten of which were tactical activations without an accompanying use of force. As far back as IMR-13, we noted our belief that the frequency of meetings and the number of cases heard during each meeting are insufficient to avoid a significant (and new) backlog of FRB cases in the coming months and year(s). Our opinion has not changed. There are different strategies APD could consider, which we have shared with the department on more than one occasion.

During IMR-15 (data current through early February 2022), APD recorded a combined 212 Level 2 and Level 3 use of force cases. Of these 212 cases initiated during this monitoring period, APD recorded 169 Level 2 cases and 43 Level 3 cases. Based on these numbers alone, APD would be required to hear 60 (total) Level 2 and Level 3 cases to keep pace with their requirements, 15 more than were heard in this reporting period. That statistic doesn't consider the total number of additional tactical cases, or numbers that are ultimately generated from their backlogged use of force cases. As we commented in IMR-14, "These numbers indicate the next great crisis confronting APD: Use of force rates by APD personnel are so high that existing oversight systems will be unable to keep up with required oversight." This remains true.

On a more positive note, the FRB heard twenty-four (24) Level 2 and Level 3 cases that occurred within the same monitoring period. This is in large part due to an increased timeliness of case completion rates since EFIT began working with IAFD in July 2021 (shortly before this monitoring period). This is important because it provides the FRB the information it needs to assess contemporary issues occurring in the field and allows them the opportunity to make appropriate referrals in a timely manner and quickly address problematic behaviors.

As we previously commented, conceptually, the FRB should rarely encounter situations in which serious misconduct is missed or uses of force are inadequately investigated. With increased staffing of IAFD operations, and the use of EFIT to enhance IAFD capabilities, the quality of use of force investigations has noticeably increased. Therefore, the FRB can better rely on use of force findings, avoid the need to initiate misconduct investigations, move more swiftly through cases and focus their effort on higher organizational needs.

## **Results**

We continue to believe the FRB is a key organizational feature for influencing reform. Our observations during IMR-15 are meant to highlight the sustained performance within the meetings while casting light on potential threats to CASA compliance with Paragraph 78. As we noted in the past, if APD is ever to achieve operational compliance in its use of force requirements beyond only Paragraph 78, having a fully functional, engaged, and well-documented FRB will be essential.

Based on our review, we have determined secondary compliance is continued for Paragraph 78. The FRB continues to show signs that it can achieve operational

compliance with Paragraph 78 in terms of comprehensive and reliable reviews of Level 2 and Level 3 uses of force investigations, but the rate of cases being heard must immediately and dramatically increase for the FRB to achieve operational compliance. The lack of timeliness is a clear threat and impacts APD's ability to meet certain provisions of this paragraph. We remain encouraged with the FRB performance and will continue to provide technical assistance to help them achieve operational compliance as quickly as possible.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

***Recommendations for Paragraph 78:***

***4.7.44a: Report regularly to the Chief of Police on progress toward the established goals and objectives related to the FRB process. The report should include statuses on the FRB's progress in catching up on backlogged cases required to be reviewed.***

***4.7.44b: Immediately increase the number of FRB meetings and the number of cases reviewed during those meetings to address APD's use of force cases and to prevent a backlog of unreviewed cases of officers' use of force.***

***4.7.44c: FRB should focus attention on uses of force trend data to ensure policy and training are properly addressing performance in the field.***

**4.7.66 Assessing Compliance with Paragraph 79: Annual Use of Force Reporting**

Paragraph 79 states:

**“At least annually, APD shall publish a Use of Force Annual Report. At a minimum, the following information should be included in the Annual Use of Force Report:**

- a) number of calls for service;**
- b) number of officer-initiated actions;**
- c) number of aggregate uses of force, and uses of force by Level;**
- d) number of arrests;**
- e) number of custodial arrests that involved use of force;**
- f) number of SWAT deployments by type of call out;**
- g) number of incidents involving officers shooting at or from moving vehicles;**
- h) number of individuals armed with weapons;**
- i) number of individuals unarmed;**

**j) number of individuals injured during arrest, including APD and other law enforcement personnel;**

**k) number of individuals requiring hospitalization, including APD and other law enforcement personnel;**

**l) demographic category; and**

**m) geographic data, including street, location, or Area Command.”**

## **Methodology**

Paragraph 79 of the CASA addresses requirements APD must meet by publishing a Use of Force Annual Report.

Previously, APD published its final Annual Use of Force Report, inclusive of 2016-2019. The aggregation of year-over-year data gave the department a better context to the information they are assembling. During the IMR-14 reporting period, APD published a Preliminary Annual Use of Force Report inclusive of 2016-2020 data. As discussed elsewhere, APD allowed a large backlog of use of force investigations to accumulate dating back to early 2020. Because of that failing, APD submitted its 2020 Annual Use of Force Report as “preliminary,” since data may change as the backlogged use of force cases are subjected to investigations and chain of command oversight. The monitoring team requested information to demonstrate that 2021 data had been included in an updated Annual Report. However, as of the close of IMR-15, 2021 use of force data had not been assembled in either final or preliminary status.<sup>74</sup> Once all the pending backlog cases are completed, APD will reassess the report for final status.<sup>75</sup>

In each monitor’s report through IMR-14, there have been instances in which APD personnel failed to report or investigate properly uses of force, which obviously impacted data integrity in the Use of Force Annual Reports. The assistance and oversight of EFIT since July 2021 has had a positive impact by reducing the instances of new use of force cases, as evidenced in our case reviews during this reporting period. Since APD’s overall list of use of force investigations includes a second extensive backlog of more than 600 cases, dating back to early 2020, the data validity in the Preliminary Annual Use of Force Report remains in question. At the time of the writing of this report, APD was in the final stages of expanding the scope of work with EFIT, so that EFIT will be relied upon to conduct initial

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<sup>74</sup> IMR-15 closed on January 31, 2022, one month after the close of 2021. Annual Reports are a large undertaking, and even under even normal circumstances it would not be expected to complete a final annual report before the close of January each year. That does not, however, diminish the significance of the impact the use of force investigation backlog has on 2020 final report or APD’s inability to draw inferences from that data in a timely manner.

<sup>75</sup> At the close of the monitoring period APD sought to expand the scope of work for the EFIT so that they would investigate the backlogged use of force cases. Based on our experience with this project and APD’s performance during the timeframe of those force events, it is likely EFIT will uncover issues that will impact use of force data for the years 2020 and 2021.



investigations, or complete pending investigations, into the second backlog of use of force cases.

We have determined that APD sustained secondary compliance status for Paragraph 79; however, finalizing reports will be a prerequisite for assessing operational compliance. That will require the department to address the backlog of use of force cases through either their own effort or to rapidly implement other investigative practices.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not in Compliance**

### ***Recommendations for Paragraph 79:***

***4.7.66a: APD's must ensure the use of force investigation backlog is reconciled, and the complete data required by Paragraph 79 requirements should be incorporated into a final Annual Use of Force Report.***

***4.7.66b: APD should monitor use of force, serious use of force, and show of force reporting discrepancies that are found. Reporting errors must be reconciled to ensure that statistics published in its Annual Use of Force Reports are accurate.***

***4.7.66c: Now that APD transitioned to a three-tiered use of force reporting system, they should maintain an auditing process for tier-one uses of force to ensure proper categorization is taking place. Data collected from these audits should feed the Annual Use of Force reports, and when appropriate referred to IA and the academy.***

***4.7.66d: APD should devise ways to scrutinize data presented by the individual department units and continue to coordinate with PMU to ensure that there are common methods to handle, analyze and present data.***

### **4.7.67 Assessing Compliance with Paragraph 80**

Paragraph 80 states:

**“APD shall be responsible for maintaining a reliable and accurate tracking system on all officers' use of force; all force reviews carried out by supervisors; all force investigations carried out by the Force Investigation Section, Internal Affairs Division, or Multi-Agency Task Force; and all force reviews conducted by the Performance Review Unit of the Compliance**

**Bureau and the Force Review Board. APD shall integrate the use of force tracking system with the Early Intervention System database and shall utilize the tracking system to collect and analyze use of force data to prepare the Use of Force Annual Report and other reports, as necessary.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not in Compliance**

### ***Recommendation for Paragraph 80:***

***4.7.67a: Follow through on current planning efforts to address this paragraph.***

### **4.7.68 – 4.7.72 Assessing Compliance with Paragraph 81-85: Multi-Agency Task Force (MATF) Participation by APD**

Paragraphs 81- 85 of the CASA address the requirements that APD continues to participate in a MATF, consult with the participating jurisdictions to establish investigative protocols for the task force, and generally consult and coordinate with the participating agencies regarding investigative briefings and the release of information relevant to MATF investigations.

APD members from the Violent Crimes Division are assigned to the MATF to investigate officer-involved shootings, in-custody deaths (including deaths at the Bernalillo County Jail), felonious force against officers and criminal charges conduct cases resulting from a use of force by officers. This is continuously reflected in a review of documentation provided to members of the monitoring team. APD continuously ensures personnel assigned to the MATF are full-time detectives or supervisors with member agencies, ensures a representative of each member of the MATF is present during interviews of involved personnel (absent extenuating operational constraints), addresses perceived deficiencies in MATF investigations, and maintains the confidentiality of MATF investigations.

During our November 2021 site visit, the monitoring team met with the new Deputy Commander of APD’s Criminal Investigative Division, responsible for overseeing APD’s involvement (four detectives and one supervisor) in the MATF. Subsequent to that visit, the monitoring team reviewed the sign-in sheets of MATF activations for officer-involved shootings. This review continues to confirm a robust response to MATF callouts, especially officer-involved shootings, that often have multiple crime scenes necessitating numerous investigative resources.

The monitoring team reviewed a MATF briefing of an officer-involved shooting. These briefings provide an important opportunity for the MATF to release evidence (inclusive of

video recordings of uses of force) involving APD members. The briefings also help preserve the integrity of ongoing criminal investigations involving APD members by disseminating critical information.

Finally, the MATF Memorandum of Agreement (MOA) has been amended to accommodate the Rio Rancho Police Department back into the MATF but is still awaiting signature by some of the parties. The deputy commander overseeing APD's commitment to the MATF continues to seek additional training for APD members and other personnel assigned to the MATF. During this monitoring period, interview training for some 40 members has been completed, including for personnel who assist MATF during investigations.

Based on our review, we have determined operational compliance is continued for Paragraphs 81 through 85.

#### **4.7.68 Assessing Compliance with Paragraph 81: MATF Participation by APD**

Paragraph 81 of the CASA stipulates:

**“APD shall continue to participate in the Multi-Agency Task Force for as long as the Memorandum of Understanding continues to exist. APD agrees to confer with participating jurisdictions to ensure that inter-governmental agreements that govern the Multi-Agency Task Force are current and effective. APD shall ensure that the inter-governmental agreements are consistent with this CASA.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.69 Assessing Compliance with Paragraph 82: Investigative Protocols for the MATF**

Paragraph 82 stipulates that:

**“APD agrees to consult with participating jurisdictions to establish investigative protocols for the Multi-Agency Task Force. The protocols shall clearly define the purpose of the Multi-Agency Task Force; describe the roles and responsibilities of participating agencies, including the role of the lead investigative agency; and provide for ongoing coordination among participating agencies and consultation with pertinent prosecuting authorities.”**

#### **Results**

Primary: **In Compliance**

Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.70 Assessing Compliance with Paragraph 83: Coordination with MATF**

Paragraph 83 stipulates:

**“APD agrees to consult and coordinate with the Multi-Agency Task Force on the release of evidence, including video recordings of uses of force, and dissemination of information to preserve the integrity of active criminal investigations involving APD personnel.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.71 Assessing Compliance with Paragraph 84: Briefing with MATF**

Paragraph 84 of the CASA stipulates:

**“APD agrees to participate in all briefings of incidents involving APD personnel that are investigated by the Multi-Agency Task Force.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.72 Assessing Compliance with Paragraph 85: Expiration of MOU re MATF**

Paragraph 85 stipulates:

**“If the Memorandum of Understanding governing the Multi-Agency Task Force expires or otherwise terminates, or APD withdraws from the Multi-Agency Task Force, APD shall perform all investigations that would have otherwise been conducted pursuant to the Memorandum of Understanding. This Agreement does not prevent APD from entering into other investigative Memoranda of Understanding with other law enforcement agencies to conduct criminal investigation of officer-involved shootings, serious uses of force, and in-custody deaths.”**

#### **Results**

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

**4.7.73 – 4.7.75 Assessing Compliance with Paragraph 86-88: Review of Use of Force Policies and Training; Use of Force Training Based on Constitutional Principles; and Annual Supervisory In-Service Training.**

During this reporting period, the monitoring team corresponded with APD personnel responsible for the tasks associated with Paragraphs 86-88 and met with them during our November 2021 site visit. As in the past, we provided feedback and perspective that we believed would benefit their efforts toward meeting CASA training requirements. In IMR-14, we shared our perspective that the steps necessary to achieve secondary compliance are straightforward, and with effective leadership and a reasonable allocation of resources, APD should be positioned to return to secondary compliance by the close of IMR-15. During the IMR-14 reporting period, APD's Academy made positive strides toward that end, specifically with the delivery of the first of two days of Tier 4 (MARC) training previously reported on by the monitoring team. The academy built upon that accomplishment throughout the IMR-15 reporting period and, in the opinion of the monitoring team, has re-gained secondary compliance with Paragraph 86 and Paragraph 87. However, Paragraph 88 remains at primary compliance as detailed below.

As with past reporting periods, APD's Academy staff were receptive to feedback and were professional during our interactions. As we have noted previously, the technical assistance we share is intended to provide APD with foundational information we believe will make them more effective. Our goal is always to help organize their efforts so they are able to provide officers and supervisors with training that will build skills and abilities that meet the terms of the CASA. Sound policies and training are foundational necessities to APDs training goal, which is to ensure officers are prepared for and can apply Constitutional policing practices in the field. Providing training and *effective* training are not necessarily synonymous. For an agency attempting to affect cultural change, training practices normally found in policing will be insufficient. Few police agencies, in our experience, are adept at collecting baseline data about performance from the field, developing effective training, and then measuring outcomes in performance in the field. There is a higher-order sophistication to "change" training development required, which is the purpose of APD's 7-Step Training Cycle. There is no doubt in our minds that the people leading the academy understand the concepts of that training development process, but building the pathways of information to the academy, pathways that inform their curriculum based on specific, contemporary needs in the field, is still a work in progress. We cannot stress enough the importance of this concept. Achieving sustainable cultural change by reinforcing the right behaviors and remediating problematic behaviors through training must move more quickly than in the past, or the reform process will continue to take more time than expected.

The propensity of APD has been to react slowly to our technical assistance, with basic tasks sometimes taking months or years to put into place. There are indicators that the

new academy command personnel will embrace our technical assistance and put measures in place to collect officer performance needs information as soon as practicable. Otherwise, the organization's training will always be months behind the needs in the field. The background and experiences of the new academy team are an important precondition to their success, but APD is not in a typical law enforcement operating environment. Here they must demonstrate operational compliance in the field at a 95 percent sustained compliance rate, as opposed to departments not under court supervision. In short, training effectiveness is critical to APD's ultimate success with the CASA.

During the IMR-14 reporting period, APD sought out and hired a Curriculum Development Manager to supervise this area of the academy. Our initial impressions were positive, and throughout the IMR-15 monitoring period, the Curriculum Development Manager and her staff have continued to demonstrate a strong understanding of curriculum development. The monitoring team provides its feedback and perspective, which is quickly and easily understood, and we see evidence of our feedback in the revised curricula we review. The quality of the training materials we received during this monitoring period far exceeded those we received in the past. Even training we previously approved and commented favorably about has been outpaced by recent submissions to the monitoring team. Information is organized, well written, and follows a logical pattern. In the past, we tried to convince the academy to overtly link training objectives to the supporting curriculum, and then create test questions to measure if a transfer of learning occurred to the officers (i.e., determine if each training objective was met). This is now occurring as a matter of routine, and as a consequence of these training enhancements, our ability to review, provide feedback, and then approve training is greatly accelerated.

In IMR-14 we also noted that APD hired a new Academy Director, and since that time an Assistant Director has also been hired.<sup>76</sup> Both have federal law enforcement backgrounds and have a depth of supervisory and leadership experience. Throughout IMR-15 the new commanders have continued to support the needs of the staff in terms of CASA compliance, while learning their own responsibilities while in an agency under federal oversight. We are very encouraged by the direction the academy is heading. In past Monitor reports, we have repeated the importance of the academy director position and highly encouraged the highest echelon of the organization to support the academy director's perspective and identified needs. In IMR-14 we noted, "The academy director position needs the support and full weight of the Office of the Chief of Police and the Superintendent of Police Reform. The responsibilities of this position, like IAPS and IAFD, carry enormous importance to APD's compliance efforts. Frankly speaking, their opinions expressed during organization-level meetings should carry significant weight, and executive-level respect for the positions they hold should carry weight commensurate with that importance." Finally, staffing and resources are a commodity in any organization, but for CASA compliance, no agency command has more relevance than the academy. APD executives should be mindful of that fact when allocating those resources.

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<sup>76</sup> Several additional staffing hires occurred as well to support academy needs.

The following represents our findings related to Paragraphs 86-88 for this monitoring period.

APD had two pending training requirements to address for this reporting period for Paragraphs 86 and 87, specifically the annual 24 hours of use of force training and the two Tier 4 training sessions (RBT and MARC) that we discussed in IMR-14 (and before). The monitoring team assessed that Tier 4 - Reality-Based Training (RBT), and Tier 4 - Mechanics of Arrest, Restraint, and Control (MARC) address several of the annual training requirements as well, so where appropriate, APD received recognition for both. As such, we first will discuss our findings and observations of the Tier 4 MARC and RBT training courses, which took place throughout 2021.

Tier 4 MARC: As noted in IMR-14, on February 22, 2021, APD promulgated Special Order 21-26, making it mandatory that APD sworn personnel attend the Tier 4 MARC training. As noted in prior reporting periods, this training received monitor approval and comprised the use of force Mechanics of Arrest, Restraint, and Control (MARC) components of Tier 4. This hands-on training provided officers with opportunities to apply force properly in a controlled setting. Also, officers were required to document their rationale for using force, and those reports were reviewed and critiqued by members of IAFD. The academy first "beta tested" the training on the academy and IAFD personnel before general sessions began on March 9, 2021. After the "beta test," the academy slightly adjusted the itinerary to allow IAFD more time to review officer reports before the close of each day.<sup>77</sup> Those training sessions ran through May 2021, with makeup dates scheduled for June 2021.<sup>78</sup> Data we reviewed indicated that throughout the training, the academy conducted 688 remedial sessions with personnel who failed any single objective of the training. Each officer's performance was remediated, and they passed upon subsequent attempts. In an August 9, 2021, Close Out Memo<sup>79</sup> we reviewed, APD reported that as of July 29, 2021, of the 920 APD officers available to attend Tier 4 DT, 909 successfully completed the training, a 98.8 percent attendance record. This represents an exceptional record by APD; however, we note that eleven officers who missed the original training will need to be trained to avoid inadvertent lapses that may result in actions that may not be congruent with the requirements of the CASA.

Following conversations between APD's Academy and the monitoring team, the Tier 4 RBT received approval for delivery, which was accomplished throughout the fall, ending December 30, 2021. During our November 2021 site visit, members of the monitoring team also had the opportunity to conduct an in-person assessment of the various components of this training. We observed good interaction between trainers and

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<sup>77</sup> As part of the training officers had to document their actions and those reports were reviewed by a member of IAFD.

<sup>78</sup> Personnel on extended authorized duty leave will receive the training upon their return to work.

<sup>79</sup> During this reporting period Close Out Memos were provided for several training programs. We commented previously that when these memos become routine, they can be relied on as course of business documentation.

attendees prior to and during the various scenarios in which they took. We saw instructors providing scenario briefs and encouraging officers to explain their actions after they finished the scenario. The instructor/student ratio was appropriate to allow one-on-one feedback to each officer. The instructors used tablets to score the participant's performance on a predetermined set of criteria. Attendance and testing data we reviewed indicated that throughout the training, the academy conducted initial and remedial sessions with 825 sworn personnel. Eighty-nine people are out on extended authorized leave, and three people had yet to attend the training by the close of the year. In a December 30, 2021 Close Out Memo we reviewed, APD reported that as of the 825 APD officers available to attend Tier 4 RBT, 822 successfully completed the training, which translates to a 99.64 percent completion rate.

As a follow-up to the Tier 4 RBT, APD submitted to the monitoring team a briefing video on high-risk motor vehicle stops to the monitoring team for review. The video was created in response to feedback the academy received where certain elements of the Tier 4 RBT training needed to be reiterated or clarified. Following approval, the video was distributed through APD's online learning management system. Again, though not considered training, attendance records, and a Closeout Memo, dated January 19, 2022, documented that 864 of 873 available sworn members viewed the video for a 98.7 percent completion rate.

#### **Paragraph 87a:**

During this reporting period and IMR-14, the monitoring team had the opportunity to review training curriculum for the Tier 4 MARC and RBT, as well as state-mandated search and seizure curriculum that was captured in its 2021 MOE legal updates. The 2021 MOE training was delivered through APD's online learning management system using PowerPoint and voiceover, while both Tier 4 training sessions were delivered in person at the APD Academy.

With respect to the 2021 MOE training, the monitoring team had discussions with the academy to suggest they incorporate APD-specific issues. However, since this training had to be delivered for state certifications before the close of the year (2021), the academy felt they did not have enough time to adjust the curriculum. We were assured that the same topics would be addressed with the 2022 in-person training they had planned.<sup>80</sup>

The monitoring team reviewed 2021 MOE Legal Updates (Parts 1 & 2) and provided its approval of the training. The training attendance and testing records and accompanying Closeout Memos were provided post-training. In a Closeout Memo for Part 1, dated January 20, 2022, APD documented that of 872 sworn personnel available to attend the training (i.e., not on approved authorized leaves), 867 completed the training for a 99.4

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<sup>80</sup> After the close of this reporting period the monitoring team had been provided the first training curriculum for search and seizure, which is in-person as promised. APD must do more to create pathways of information that serve as the foundation to address specific needs in the field. This is something the monitoring team has stressed from the beginning of the project.



percent completion rate. In the Closeout Memo, dated January 20, 2022, for Part 2, APD documented that of 872 sworn personnel available to attend the training (i.e., not on approved authorized leaves), 863 completed the training for a 98.9 percent completion rate. These statistics were compared against the underlying testing records.

Additionally, APD received Tier 4 RBT and MARC training that incorporated APD SOPs, which are anchored in Fourth Amendment requirements. Finally, though not considered training, APD now distributes Newsletters that provide search and seizure updates in a more expedient manner. These Newsletters are distributed through APDs online learning management system, but do not include lesson plans or testing. The intent of the academy is to distribute the information through Newsletters, so officers are aware of things relevant to their duties, and then incorporate the information into training soon thereafter, in congruence with established training calendars.

**Paragraph 87b:**

APD completed the requirements with this Paragraph provision through the Tier 4 RBT and Tier 4 MARC training programs as noted above.

**Paragraph 87c:**

APD completed the requirements with this Paragraph provision through the Tier 4 RBT and Tier 4 MARC training programs as noted above. Additionally, APD delivered a 2021 MOE Mental Health and De-Escalation training program to its sworn personnel.

On August 23, 2021, Special Order 21-102 was issued for the 2021 Phase II Biennium Training, "MOE Mental Health and De-escalation." We reviewed attendance and testing records and a January 28, 2022, Closeout Memo, which documented that all of 891 available sworn personnel attended this training.

**Paragraph 87d:**

APD completed the requirements with this Paragraph provision through the Tier 4 RBT and Tier 4 MARC training programs as noted above. Additionally, APD delivered a 2021 MOE Mental Health and De-Escalation training program to its sworn personnel.

On August 23, 2021, Special Order 21-102 was issued for the 2021 Phase II Biennium Training, "MOE Mental Health and De-escalation." We reviewed attendance and testing records and a January 28, 2022, Closeout Memo, which documented that all of 891 available sworn personnel attended this training.

**Paragraph 87e:**

APD met the provision that required "scenario-based training and interactive exercises that demonstrate use of force decision-making and de-escalation strategies" throughout

the delivery of Tier 4 MARC and Tier 4 RBT.<sup>81</sup> The academy should accelerate its efforts to identify specific officer needs so reality-based scenarios can home in on behaviors that will close gaps that should benefit operational compliance determinations when uses of force occur.

### **Paragraph 87f**

APD completed the requirements with this Paragraph provision through the Tier 4 RBT<sup>82</sup> and Tier 4 MARC training programs as noted above. Additionally, APD delivered a 2021 MOE Mental Health and De-Escalation training program to its sworn personnel.

We reviewed training records for the 2021 Taser Update (Parts 1 & 2), including a January 31, 2022 Closeout Memo. The memo recorded that of those officers available to train (i.e., Not on extended and authorized duty leave), 98.7 percent successfully completed the training. We also reviewed a January 31, 2022, memo documenting two separate mandatory training referrals for additional ECW training. Both officers successfully completed the remedial training. We also reviewed a February 8, 2022, Closeout memo documenting that 98 percent of APD officers who were required to complete the 2021 Taser 7 Recertification training successfully passed.

We reviewed 2021 Firearms Qualification attendance and test records and accompanying Closeout Memos. APD's Academy documented in a January 24, 2022 memo that 98 percent of active and available APD officers successfully completed their required 2021 firearms qualifications courses.

### **Paragraph 87g:**

Since the beginning of IMR-9, we documented ERT's effort to develop training and how that training is intended to address CASA requirements through a 3-Stage delivery process. Their work for Paragraphs 39-40 directly impacted the academy's compliance efforts here. During this reporting period, all three stages of training materials that were submitted to the monitoring team for review were approved<sup>83</sup>, and delivered to APD and ERT personnel as follows:

Stage 1: The monitoring team was provided a lesson plan, PowerPoint, and video for "Field Services Response to Demonstrations and Civil

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<sup>81</sup> In IMR-14 the monitoring team approved Tier 4 RBT with two provisions: 1) That the proper amount of staffing be allotted to allow the training curriculum we were presented could be reasonably accomplished, and 2) That APD provides additional and required 2021 Use of Force Training, including RBT scenarios, that address other identified needs in the field." The second provision was not met. However, we see a renewed energy and sincere interest to build out the 2022 training calendar and the new academy staff have been very receptive to feedback as they acclimate themselves to their requirements. We observed the Tier 4 RBT training during our November 2021 site visit and found the instructors to be very engaging with the class participants.

<sup>82</sup> The Tier 4 RBT contained ECW recertification elements.

<sup>83</sup> The monitoring team provided feedback to APD's ERT and academy regarding each training program. Following our review of modifications of curriculum all three programs were approved for delivery.

Disturbances" on September 2, 2021. Feedback was given on September 8, 2021, and final approval was given for the course on October 8, 2021, after APD revised the course. The training video was delivered to APD through their online Learning Management System (LMS). The monitoring team requested and was provided training attendance and testing records and the Close Out Memo for the course dated January 20, 2022. Records revealed that 883 of 883 (100 percent) sworn APD personnel successfully attended the course, with 31 additional still pending due to extended authorized leaves of absence.

Stage 2: The monitoring team was provided a lesson plan and PowerPoint for "Emergency Response Team: Officer Development" on October 22, 2021. Feedback and approval were given on November 2, 2021. The monitoring team requested and was provided training attendance and testing records, and the Close Out Memo for the course that was dated January 7, 2022. Records revealed that 93 of 94 (98.9 percent) ERT sworn personnel successfully attended the course, with one additional officer still pending due to an authorized leave of absence.

Stage 3: The monitoring team was provided a lesson plan and PowerPoint for "Emergency Response Team: Supervisor Development" on October 22, 2021.<sup>84</sup> Feedback and approval were given on November 2, 2021. The monitoring team requested and was provided training attendance, testing records, and the Close Out Memo for the course dated January 7, 2022. Records revealed that 93 of 94 (98.9 percent) ERT sworn personnel successfully attended the course, with one additional officer still pending due to an authorized leave of absence. We noted several instances where retests were required to remediate below passing scores.

### **Paragraph 87h**

During this reporting period, the APD Academy submitted training materials designed to address the provisions of paragraph 87, "initiating and disengaging foot pursuits". APD Completed this training requirement using its online learning management platform with a video and testing instrument. The monitoring team reviewed training records, including attendance and test scores, and a Close Out memo dated January 19, 2022. Nine hundred fourteen sworn APD personnel were required to take the online training course entitled "Foot Pursuit: Initiating and Disengaging Foot Pursuits." As of January 19, 2022, four people still needed to take the course, and an additional 41 were on extended authorized duty leave. Of those active members available to take the training, 869 successfully attended the course for a 99.5 percent completion rate.

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<sup>84</sup> Training records are identical for Stage 3 because APD decided to deliver both Stage 2 and 3 to all ERT personnel, wanting officers to understand the role supervisors have with ERT.

The academy must ensure those active members available for training are accounted for and that when members on extended leave return to work that the proper processes are in place to ensure they are provided all CASA-related training within a reasonable amount of time upon their return.

The monitoring team was also provided attendance records and Close Out memos for Tiers 1-3 as well, which provided data regarding current organizational attendance rates for those three sessions.<sup>85</sup> These results are reported as follows: 1) Tier 1 – Of 911 current personnel available and required to attend the training, 911 have received this training representing a 100 percent successful completion rate; 2) Tier 2 - Of 907 current personnel required to attend the training, 907 have received this training representing a 100 percent successful completion rate; 3) Tier 3 – Of 321 active sworn supervisors available to attend the training, 316 have successfully completed the training for a 99.68 percent completion rate. We highly encourage APD to remain diligent by maintaining these completion rates as other training responsibilities are addressed.

### **Additional Feedback**

We feel the use of briefing videos are a tool to disseminate information quickly but caution the academy to also be circumspect in their use. Balancing the need to inform officers of information that is immediately relevant to their duties against the need to ensure the proper application of a concept can be challenging. Depending on the topic, providing information to officers in the field without the proper context or allowing them to ask clarifying questions (as in a training session) can create disparate implementation in the field. In a follow-up call with an academy staff member, we recommended that topics contained in these types of videos be combined with formal training programs and prioritized appropriately.

APD's most significant struggle continues to reside in their application of the 7-Step Training Cycle, particularly their ability to collect baseline data throughout the organization that identifies performance deficiencies and successes and other specific needs that training should be addressed. The new Academy Director, Assistant Director, Curriculum Development Manager, and academy staff understand the importance of collecting field implementation data that can inform future training programs; however, building processes to collect data still must be put into place. We have extensively discussed with APD the creation a robust "training committee" with liaisons from across the organization who can provide their perspective from individual commands. Those conversant with organizational dynamics know that "committees" can be symbolic and many times unproductive. In our opinion, a properly formed and supervised training committee will be extremely beneficial to APD based on our team's past experiences in similar situations. The monitoring team has not only provided that opinion but has given guidance on ways to ensure that the Training Committee effectively meets the

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<sup>85</sup> Numbers are variable because of officer retirements, other types of separations and new officers entering the organization.

academy's needs. We have been told that the launch of a newly formed Training Committee will occur in the next reporting period.<sup>86</sup>

Closeout Memos have become a part of the APD Academy business process, but they have also become somewhat *pro forma*. The purpose of the Closeout Memos (or Status Update Memos) should be to tell the story of a particular training program, similar to an After-Action Report. For instance:

- Why was the training created? (Mandated/Needs/both)
- When was the training created?
- When was the training submitted for approval? (Internally/ Parties/ Legal/ IMT)
- When was the Special Order promulgated?
- What were the dates of the training? How many sessions?
- Was there a pilot session of the training?
- Were modifications made because of the pilot session? Were the modifications insignificant, and were they required to be approved?
- Anecdotal observations and feedback during the training?
- Critique information from class participants?
- Attendance and testing records?
- Takeaways for the next cycle of training?

This need not be an overly lengthy document, but it should capture much more data and serve as a roadmap for the future and a record to look back upon so academy staff understand how they reached a certain place in their training efforts. In some measure, the Closeout Memo should contain information that will serve as one component of a subsequent needs assessment. This also serves as an excellent documentation of compliance for the organization.

Paragraph 88 remains in primary compliance. APD's Academy was asked to produce documentation that the training requirements had been met. In short, failing to address the requirements was an oversight by the academy due to having been focused on the provisions of Paragraph 87 and other mandated trainings. After the close of the reporting period, the monitoring team had a productive meeting with the Academy Director and her staff. We presented options for them to consider in the future. Specifically, Paragraph 211 has certain annually required supervisory training programs. It is our belief that elements required for Paragraph 88 and Paragraph 211 are complementary, so one comprehensive training curriculum can accomplish both tasks and reduce duplicative work.

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<sup>86</sup> Parenthetically, we were told that an initial meeting will occur in April 2022, where liaisons will be oriented to their responsibilities and the next meeting will occur in October 2022. Essentially, the Training Committee will meet twice a year, with October 2022 serving as the first meeting of substance. Provided the October meeting is productive, realistically, the needs gathered from that meeting will be incorporated into training that is delivered in the spring and summer of 2023. We believe that tempo is entirely too slow and have already shared our perspective with the academy. There is no CASA requirement to have a Training Committee but failing to have one could impede operational compliance efforts in the field. The decision is APD's, but we will continue to stress the importance of this point.

The greatest threat to the academy is their ability to structure their efforts for 2022, since the training requirements are annual. In short, there is no finish line to reach in their responsibilities, and one training program will inform needs for the future, along with needs gleaned from the field. Overlaid on this threat is the fact that the organization is drafting revisions to aspects of its use of force policy suite. APD is attempting to "pilot" a Level 1 use of force program for the Field Services Bureau; and the External Force Investigation Team (EFIT) will eventually turn investigatory responsibilities for Levels 2 and 3 uses of force back to IAFD. Lessons learned and issues APD uncovers throughout these different initiatives will undoubtedly influence policies, requiring training. The academy should plan for all these moving parts to ensure they do not put themselves into a position to lose secondary compliance they have worked hard to reestablish.<sup>87</sup>

APD's compliance standing for Paragraphs 86 and 87 has been elevated to operational compliance in this reporting period. Paragraph 88 maintained its primary compliance. We reiterate here that the academy should actively engage organizational initiatives that may influence the curriculum they devise to meet the provisions of Paragraph 88. The monitoring team remains committed to continuing its technical assistance to help guide APD toward success. We believe that with commitment, APD could reestablish secondary compliance by the close of this monitoring period. APD's progress with these paragraphs are commendable, and we are highly encouraged that those additional enhancements are forthcoming.

#### **4.7.73 Assessing Compliance with Paragraph 86: Review of Use of Force Policies and Training**

Paragraph 86 stipulates:

**“Within 36 months of the Operational Date, APD will review all use of force policies and training to ensure they incorporate, and are consistent with, the Constitution and provisions of this Agreement. APD shall also provide all APD officers with 40 hours of use of force training within 12 months of the Operational Date, and 24 hours of use of force training on at least an annual basis thereafter, including, as necessary, training on developments in applicable law and APD policy.”**

#### **Results**

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

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<sup>87</sup> We made this same cautionary note in a prior monitor report, yet APD still lost secondary compliance.

#### **4.7.74 Assessing Compliance with Paragraph 87: Use of Force Training Based on Constitutional Principles**

Paragraph 87 stipulates:

**“APD’s use of force training for all officers shall be based upon constitutional principles and APD policy and shall include the following topics:**

- a) search and seizure law, including the Fourth Amendment and related law;**
- b) APD’s use of force policy, use of force reporting requirements, and the importance of properly documenting use of force incidents;**
- c) use of force decision-making, based upon constitutional principles and APD policy, including interactions with individuals who are intoxicated, or who have a mental, intellectual, or physical disability;**
- d) use of de-escalation strategies;**
- e) scenario-based training and interactive exercises that demonstrate use of force decision-making and de-escalation strategies;**
- f) deployment and use of all weapons or technologies, including firearms, ECWs, and on-body recording systems;**
- g) crowd control; and**
- h) Initiating and disengaging foot pursuits.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.75 Assessing Compliance with Paragraph 88: Annual Supervisory In-Service Training**

Paragraph 88 stipulates:

**“Supervisors of all ranks, including those assigned to the Internal Affairs Division, as part of their initial and annual in-service supervisory training, shall receive additional training that includes: a) conducting use of force investigations, including evaluating officer, subject, and witness credibility; b) strategies for effectively directing officers to minimize uses of force**

and to intervene effectively to prevent or stop unreasonable force; c) incident management; and d) supporting officers who report unreasonable or unreported force, or who are retaliated against for using only reasonable force or attempting to prevent unreasonable force. “

## Results

Primary: **In Compliance**  
Secondary: **Not In Compliance**  
Operational: **Not In Compliance**

### ***Recommendations for Paragraphs 86-88***

***4.7.73-75a: APD should devise and implement a coherent plan to address use of force training requirements for 2022 and the next reporting period, considering agency-wide initiatives to “pilot” new programs, and revisions being made to APD’s use of force suite of policies, with the goal of sustaining secondary compliance of Paragraphs 86 and 87. Curriculum developed for annual use of force training should incorporate specific needs of officers and supervisors in the field, and address each component of Paragraphs 86-88.***

***4.7.73-75b: The academy staff should be properly augmented to ensure the quality of training curriculum and training systems are not negatively impacted due to staffing shortages. Staffing should contemplate the academy’s ongoing, annual training responsibilities that have relevance to numerous CASA requirements.***

***4.7.73-75c: APD personnel assigned to non-academy commands that carry significant training requirements should receive training commensurate with the academy staff. This will ensure continuity in curriculum development across the organization.***

***4.7.73-75d: APD should convene a Training Committee, chaired by the Academy Commander, which requires agency-wide liaisons to actively participate with academy personnel, share training needs and provide perspective that can enhance and be incorporated into annual use of force in service training***

### **4.7.76 Assessing Compliance with Paragraph 89: Annual Firearms Training**

Paragraph 89 stipulates:

“Included in the use of force training set out above, APD shall deliver firearms training that comports with constitutional principles and APD policy to all officers within 12 months of the Operational Date and at least



yearly thereafter. APD firearms training shall:

a) require officers to complete and satisfactorily pass firearms training and qualify for regulation and other service firearms as necessary, on an annual basis;

b) require recruits, officers in probationary periods, and officers who return from unarmed status to complete and satisfactorily pass firearm training and qualify for regulation and other service firearms before such personnel are permitted to carry and use firearms;

c) incorporate professional low-light training, stress training (e.g., training in using a firearm after undergoing physical exertion), and proper use of force decision-making training, including continuous threat assessment techniques, in the annual in-service training program; and

d) ensure that firearm instructors critically observe students and provide corrective instruction regarding deficient firearm techniques and failure to utilize safe gun handling procedures at all times.”

## **Methodology**

The methodology outlined in Paragraphs 17-20 serves as the baseline for compliance determinations for paragraph 89.

The 2021 Firearms Training cycle was completed with 98.14 percent sworn personnel attending and 100 percent of all active sworn. The standard operating procedure for officers returning to duty after an absence due to disability, military duty, FMLA, etc., is immediately assigned to the Training Academy for Firearms Qualification and any other updates necessary for their return to duty.

APD Range Staff have continued to provide range hours to enable officers to practice firearms in daylight and low-light environments. In reviewing data related to failures to qualify, firearms staff continue to document the referral to additional training for poorly performing shooters. The now-discontinued Enterprise Learning Management database mentioned in IMR-14 has proven problematic, and the search continues for an automated system to capture data related to remedial qualifications. A full-time Service Aid has been added to the staff to aid in data capture and other administrative duties at the range.

The failure to qualify numbers in all categories continues trending down from 2020 and 2019, reflecting the additional enhanced training. After completing the required Firearms training cycle for 2021, we commend APD for overcoming the delays and obstructions.

## **Results**

Primary: **In Compliance**

Secondary: **In Compliance**  
Operational: **In Compliance**

**4.7.73 - 4.7.75 Assessing Compliance with Paragraph 90-105: Management of Specialized Units, and accompanying paragraphs focused on the Special Operations Division.**

Paragraphs 90-105 of the CASA address requirements that APD must meet related to management and supervision of functions inside the Special Operations Section (SOD) as follows:

Paragraph 90: Management of Specialized Units;  
Paragraph 91: Composition of Specialized Tactical Units;  
Paragraph 92: Training of Specialized Tactical Units;  
Paragraph 93: Tactical Unit Missions and Policies;  
Paragraph 94: Tactical Units Policy and Procedure;  
Paragraph 95: Annual Review of Tactical Policies;  
Paragraph 96: Documentation of Tactical Activities;  
Paragraph 97: Tactical Mission Briefings;  
Paragraph 98: Tactical Uniforms;  
Paragraph 99: Force Review Board Assessments;  
Paragraph 100: Eligibility Requirements for Tactical Teams;  
Paragraph 101: Tactical Team Training;  
Paragraph 102: K9 Post Deployment Reviews;  
Paragraph 103: Tracking K9 Deployments;  
Paragraph 104: Tracking K9 Bite Ratios; and  
Paragraph 105: Analyzing Tactical Deployments.

As with other reporting periods, the monitoring team provided perspective and feedback to APD's Special Operations Division (SOD) and met with personnel responsible for the tasks associated with these paragraphs during our November 2021 site visit. The people within the command structure of SOD, and the deputy chief over SOD, remained stable throughout this monitoring period. This has allowed continuity of business through a period that included the remediation of a problematic use of force practice<sup>88</sup> and a downward turn in staffing and morale. As with the last monitoring period, the SOD Commander has lost personnel to transfers out of the Division, which is mainly attributed to a closer supervisory oversight and accountability of SOD personnel. At the same time, SOD has advertised vacant positions, and they are slowly rebuilding their staffing levels. Because of staffing shortages, APD has been forced to rely on more assistance from allied agencies when tactical deployments are necessary. Based on our observations during this reporting period, SOD oversight continues to institute administrative and operational processes to sustain CASA compliance. We comment below on areas of success and call out issues that SOD should take cognizance of for future sustainment.

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<sup>88</sup> In prior monitor reports we have commented on the issue of a "layered response" of force used during some tactical deployments.

Findings related to Paragraphs 90-105 are discussed below.

SOD previously established administrative business processes that helped them obtain operational compliance, and we found that continuity of information to have been sustained during this reporting period. We reviewed in After-Action Reports (AARs) a strong presence by SOD Commanders in the initial assessment of deployment requests. We noted two specific observations of After-Action Reports during IMR-14: (1) The assessment of initial requests for SOD deployments and the data they consider is not superficial. The commander and lieutenant are looking deeper into the presented representations by outside commands to ensure their decisions are grounded with facts and are consistent with existing policy<sup>89</sup>; (2) The clarity in documenting their initial event assessments (placed appropriately at the beginning of the reports) sets the right context for each deployment decision. We saw evidence of numerous instances in which, after collecting information from a command that requested a tactical response, the SOD Commanders denied the request since their deployment criteria were not met.

The quality of SOD AARs remained acceptable during this reporting period, with one noteworthy observation. In past monitoring periods, we commented that specific authorizations for the deployment of a type of force, as documented within AARs, failed to identify who actually gave the authorization. The monitoring team was provided twenty-one (21) SOD AARs resulting from tactical activations. SOD continues to document (in detail) the thought processes a supervisor goes through when decisions are made and, in most instances, properly attributed decisions to authorize a use of force for specific people. However, we saw instances where the authorization for a use of force was documented, but the identity of who approved was ambiguous. For instance, the author of a report would write, "the use of force was authorized" instead of "I authorized the use of force." We believe that APD officers feel it is implied that the author of the report authorized the force, but that is insufficient. Especially considering the length of time SOD spends on some deployments and the fact that several layers of supervisors can be on scene. Also, during this reporting period, due to a loss of personnel, SOD was relying more heavily on the assistance of tactical units from other agencies. A number of requests to transfer into SOD have been received. Therefore, it is important to clearly identify who gave the authorization to use force in the AARs.

The monitoring team and EFIT collaborated during this reporting period regarding SOD AARs and discussed whether they could be used as the supervisor narrative when a use of force occurs since they are very detailed. We agreed that because of the degree of detail in the AARs they could serve as the basis of documentation by a supervisor, which makes the specifics within the AARs even more important. We encourage the SOD Commander to reinforce and supervise the completion of AARs to ensure the proper attribution of an authorization to use force is documented. Parenthetically, following the close of this monitoring period, we discussed this issue with the EFIT Administrator since

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<sup>89</sup> An example is when a justification factor presented to them includes a history of violent or felony arrests of a suspect. IAFD does not accept this on face value and instead collect available reports to make an independent assessment of the information and the true threat that the criminal history represents.

they will be responsible for collecting AARs for the purpose of Level 2 and Level 3 uses of force. After reviewing several AARs, EFIT noted the same ambiguous wording and will correct it whenever encountered during their investigations.

In our regular interactions with EFIT, it is clear that they are satisfied with the responsiveness of SOD when issues arise. A perfect example occurred shortly after EFIT was first called out to SOD deployments. These events typically involve many SOD officers, elongated timelines, multiple decision points, multiple authorizations, and uses of force. When EFIT would arrive on scene, it was difficult for them to determine what officer roles had been and which officers needed to be admonished because they had used force. EFIT and SOD collaborated, and a protocol was set wherein SOD would use a call out sheet and document information EFIT would need when they begin their use of force investigations. In short, EFIT has commented on more than a few occasions that SOD leadership is easy to engage and work with to resolve issues.

The use of "Tactical Activation Packet" and "Tactical Assist" cover sheets for AARs continued throughout the reporting period, which serve as good checks and balances during command reviews following an event. We want to provide the following feedback for the AARs we reviewed: The timeliness of After-Action Reports continued, and with them being used as a supervisor narrative when documenting force, the timeliness will become even more critical. This will be essential, so IAFD investigations into Levels 2 and 3 uses of force are finished within their established timelines. With IAFD taking a greater responsibility to investigate uses of force associated with tactical activations,<sup>90</sup> SOD should take a proactive approach to ensure IAFD receives final versions of AARs as a part of their initial investigation. We have seen an increase in timeliness with the completion of AARs which have traditionally been submitted through the SOD Commander level within approximately two weeks. During this reporting period, we saw many AARs completed and signed off on by the SOD Commanders within 48 hours, with the lengthier AARs being completed within ten days. That timeliness should benefit IAFD, and good communication at the early stages following a SOD deployment ensures both units' CASA responsibilities are met. (P96-97)

In IMR-12, the monitoring team first called out coordination issues between SOD and ERT during protest events. The issues we previously documented were initially called out internally by SOD. We discussed that collaborative training between ERT and SOD should be viewed similarly to other routine trainings they each conduct, so that ERT and SOD have a solid foundation to work together. On August 19, 2021, Special Order 21-99 was issued for an ERT Mass Training Exercise with ERT, the Horse Mounted Unit (HMU), and the Special Operations Division (SOD). Over two days in September 2021, the three units conducted a training exercise to gain better coordination among them. We reviewed a training Close Out, dated January 7, 2022, that properly documented the combined training. The continuation of this type of cooperative training between ERT and SOD is highly encouraged. We realize that simultaneous activations of both ERT

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<sup>90</sup> EFIT is now fully engaged in SOD use of force call outs and works closely with SOD to create investigative protocols that are effective with scenes that have elongated timelines and have multiple tactical officers.

and SOD to large scale events is not a regular event. However, less frequent/high risk events are areas where any law enforcement agency is vulnerable if not properly trained. To the extent possible, training programs should incorporate lessons learned from actual ERT/SOD activations coupled with best practices identified from other organizations with similar units.

During our November 2021 site visit, we followed up on meetings we held during the IMR-13 monitoring period that centered on the interrelation of SID and SOD. In December 2020 (IMR-13), we attended a meeting between ISD (then called SID) and SOD to discuss the interplay between the divisions with respect to SOD call-out protocols. The ISD Commander (at the time) wanted the monitoring team's perspective on SOD providing services in circumstances that may pose an elevated risk but may not specifically fall within the SOD call-out protocols. We followed up on progress APD made during the IMR-14 monitoring period and believed the issue had been resolved.<sup>91</sup> However, the issue has reemerged in this monitoring period.

With respect to ISD and SOD cooperation during investigative operations, we reviewed internal ISD memorandums that documented their concerns. Likewise, in January 2022 a member of the monitoring team was asked to take part in meetings between deputy chiefs that oversee SOD and ISD to seek technical assistance.<sup>92</sup> It is our impression that both commands are interested in personnel safety, operational effectiveness, risk mitigation, and CASA compliance. Consequently, some situations are encountered where an internal difference of opinion emerges that can only be resolved by these commands considering (first) what is in the best interest of the organization as it relates to each of those four factors. We also note that SOD has been contemplative in their assessments of cases and do not want to inadvertently dissuade their due diligence when making deployment decisions. In fact, the monitoring team was presented with SOD data regarding decisions made not to activate SOD, which occurred numerous times throughout this monitoring period. Consequently, the number of tactical deployments decreased significantly from 2020 to 2021, principally attributed to SOD strictly applying their call-out criteria.

That said, where disagreement cannot be resolved between ISD and SOD, then executive level intervention is necessary, which now appears to be taking place. A key unresolved issue rests in the definition of what constitutes a "tactical response" in the context of CASA compliance. Paragraph 107 states:

"APD shall prohibit specialized investigative units from providing **tactical responses** to critical situations where a specialized tactical unit is required. APD shall establish protocols that require communication and coordination by specialized investigative units when encountering a situation

<sup>91</sup> The issue centered on situations where a RAM score may not meet the 25-point threshold for a SOD call out, but the unique circumstances of a particular case may be better addressed by SOD involvement. ISD instituted a mandate that certain scoring criteria within a RAM, if applicable, carry enough risk that they require an automatic consultation with SOD even without reaching the 25-point threshold.

<sup>92</sup> At the request of the monitoring team a member of DOJ took part in a follow up meeting with SOD and ISD Deputy Chiefs on this same topic.

that requires a specialized **tactical response**. The protocols shall include communicating high-risk situations and threats promptly, coordinating effectively with specialized tactical units, and providing support that increases the likelihood of safely resolving a critical incident." (Emphasis added)

As part of our January 2022 meetings with the two APD deputy chiefs, the deputy chief responsible for ISD expressed concern over two instances where SOD will not deploy: (1) Instances where, in ISD's estimation, the circumstances of a particular event would best be addressed by leveraging the training and experience of SOD, or (2) ISD submits a RAM with a score that meets or exceeds 25 points, but SOD reviews the RAM and disagrees with the score.<sup>93</sup> As for the latter, there have been instances where ISD scores a case above the 25-point threshold, but after SOD reviews the circumstances, they sometimes reduce the score to something below 25 points.<sup>94</sup>

Properly defining "tactical responses" is key to APD successfully moving forward, as it will inform several decisions. The Risk Assessment Matrix (RAM) was created by a SOD Commander at the early stages of this project. At the time, it was an innovative effort to create objective criteria for when SOD would respond to an event. The monitoring team has commented on several occasions that the RAM was likely in need of an update, and in past monitoring periods questioned the narrow scope of the RAM since it is centered on events, generally preplanned, where search warrants have been obtained by ISD. That does not include other high-risk events ISD may encounter that may better be addressed by SOD because of their specialized training and experience. These middle-area events, and decisions as to the proper APD Division that should deploy, are an exemplar of why the monitoring team has called out the importance of choosing SOD Commanders that possess the right temperament, experience, and sophistication. We believe that exists today. In fact, during our November 2021 site visit, the ISD Commander indicated that the SOD Commander had taken the initiative to update the RAM and sought out ISD feedback as to how to make it better. SOD now uses a "Pre-Deployment Risk Assessment" form to better capture their decision-making process when receiving a RAM for evaluation following a deployment request. However, it leaves unresolved the issue of non-search warrant events.

ISD is experiencing concerns that emerge when they want SOD assistance, but the event fails to meet SOD's set response criteria. During our January 2022 meeting the ISD Deputy Chief noted that in instances where SOD will not deploy, ISD may not be properly equipped to do so, based on the potential safety risks of some events. We were told that ISD was concerned not only with safety, but also with the perception that they are moving toward activities that may violate the provisions of Paragraph 107. ISD is grappling with whether to equip ISD detectives with tactical-style equipment when they feel it is necessary and SOD will not respond. We understood, and, frankly, this is a

<sup>93</sup> Previously, APD set the protocol that the final decision of scoring a RAM rest with the SOD Commander.

<sup>94</sup> In the past the monitoring team has called this out to APD as something to be resolved. There are several types of situations they can encounter that create conflicts between the Divisions, for instance, a RAM score of 24 may be equally as dangerous as a score of 25, which requires executives to apply their best judgement when deciding which is the best resource to deploy for a given situation. The RAM is an instrument to guide decisions, but it can't contemplate every variable APD may face.

concern the monitoring team and DOJ shared.<sup>95</sup> This is an APD executive-level decision that should contemplate all relevant factors facing the agency. That said, it is encouraging that the issue was brought to our attention by ISD preemptively and that SOD is working with them to identify ways to properly address each unit's concerns.<sup>96</sup> In the past, when APD has been faced with dilemmas like ISD and SOD are facing it would take months, and sometimes years, to resolve. We highly encourage APD to resolve this as soon as practicable, since these are recurring events that potentially could put APD in violation of Paragraph 107.

During this reporting period, APD launched a 45-day crime reduction initiative, which included SOD personnel working together with ISD detectives. Felony offenders with warrants were targeted for arrest in this initiative. Combining SOD into non-tactical, investigative initiatives naturally brings supervisory challenges, which was no exception. During one arrest attempt [IMR-15-21], an SOD officer, temporarily assigned to the initiative, deployed an NFDD in a manner inconsistent with APD's use of force policies.<sup>97</sup> Since SOD carries use of force tools that exceed other organizational units, presetting supervisory protocols to create proper rules of engagement is critical. The use of some tools require authorization, and this SOD member, in the heat of a foot pursuit, deployed the NFDD under circumstances that are not usual for SOD. In our meetings with the ISD and SOD Commanders, we believe they resolved the issue and are committed to setting the proper protocols and supervisory oversight for ISD initiatives. We see this as a critical issue that APD executives should closely monitor to avoid future similar situations.

As referenced above, ISD consults with SOD for specific types of search warrants and is required to fill out a Risk Assessment Matrix (RAM)<sup>98</sup> to determine if they are required to call out SOD. During the IMR-15 reporting period, we reviewed data for four (4) separate events and one (1) RAM audit prepared by SOD. The auditing of data by SOD continued appropriately during this reporting period. Within the RAM, there are criteria that reference past incidents involving either a suspect or suspect's residence. (For instance, "Subject of the warrant has violent criminal history (within past 10 years)") On one RAM we reviewed, we saw more than a score and attachments, but also saw case numbers listed as notations for several criteria. We saw this as a practical approach to the documentation and gives any auditor a quick reference to understand the specific case considered when the score was determined. This will be helpful in the event an ISD or SOD decision is ever called into question after the fact, where APD executives

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<sup>95</sup> Since APD personnel can easily move from SOD to ISD, we share the concern that over time there could be a risk that ISD will take on responsibilities that implicate Paragraph 107.

<sup>96</sup> The monitoring team was told that the impetus for the discussion was a situation where a RAM was completed by ISD and the score exceeded 25 points, but SOD saw the scoring differently and when recalculated the score fell below 25 points and therefore an SOD response did not occur.

<sup>97</sup> The officer had prior disciplinary matters at SOD and was moved from that unit due to out of policy uses of force, but APD moved him back to SOD temporarily. He was then placed on the crime reduction initiative and again used force against APD's use of force policy.

<sup>98</sup> There are pre-set and scored categories APD units must consider when filling out a RAM, and a score of 25 or more requires a SOD call out. Units are also required to append proofs that they made inquiries for specific risk categories (i.e., An assessment as to whether the suspect has a violent history requires criminal histories to be attached).

will be able to quickly assess the information that was considered by the SOD when auditing the records. Our review of RAM audit documentation revealed the process put in place to oversee investigative use of the RAM has continued as previously described to the monitoring team.

The monitoring team reviewed SOD records related to the selection of nine (9) APD personnel into the Division and found those records to be sufficient. The onboarding of SOD personnel includes on-the-job training and checklists to ensure that new personnel demonstrates specific skills that are assessed by their supervisors. Records reviewed during this reporting period included Department Personnel Circulars with job descriptions, Transfer Orders, and Unit Handbooks for SWAT, K9, and the Bomb Unit. As noted in IMR-14, SOD continues to maintain records that track the selection process from posting an opening to selecting an officer for assignment to SOD. APD's new SOD personnel have been attending basic tactical courses throughout this monitoring period, and the division will continue to build the capabilities of their personnel to become self-sufficient into 2022. (P91)

We reviewed internal SOD training records for the SWAT, K9, and Bomb Units. The training that SOD conducts at the Division level includes a standardized form that includes goals, objectives, and measures for the training they provide. As we have noted in the past several monitoring reports, there is still room to enhance these routine training records to avoid gaps and provide a means to measure individual and unit proficiencies across the various topics they cover. SOD training sessions are not conditioned to accurately measure proficiency against preset criteria collected following each officer's performance in each task. In past site visits, we have observed SOD training sessions and remarked on their professional atmosphere but ensuring there was a transfer of learning is essential. We repeat what has been said in past monitoring reports, the development of measurable performance criteria for these routine training sessions would allow SOD to demonstrate preset and expected proficiencies were met by each specific officer, further allowing SOD to capture data that may be relevant to the development of organization-wide training. The routine trainings need not be overly cumbersome to achieve better outcome measures. SOD need only ask itself four basic questions with respect to routine training sessions: 1) What specific behavior (s) or performance are we attempting to influence with this training?; 2) What specific actions will a SOD member have to demonstrate to show they are proficient in the new skill?; 3) How is that skill measured?; 4) What documentation does SOD possess, post-training, to demonstrate each attendee attained the specific outcome the training was meant to achieve? (i.e., How does SOD prove a specific attendee demonstrated a specific proficiency?) These are the skills being refined at the Training Academy, which is why the monitoring team recommends that outside divisions try to emulate the academy with its training records to the extent possible with routine training. We will continue to provide technical assistance to SOD as they refine routine training. (P91-92; 101)

Based on our review of the existing SOD policy requirements and other related documentation, we determined that SOD remains in operational compliance with respect to tactical unit missions and policies and annual reviews of policies. Several policies are due for renewal, and we were presented with an update that demonstrated that the SOD



policies are at various stages of completion. When updated, we will look to see what adjustments are made, either directly within SOPs or through Special Orders, that address the issues APD uncovered during the past few reporting periods. The monitoring team also reviewed SOD handbooks prepared during the reporting period, demonstrating that SOD is continuing the routine "onboarding" practice established by previous commanders. As we noted earlier, call-out criteria is an area APD should consider assessing as they continue to review and refine their policies. Likewise, after the close of the monitoring period, an APD deputy chief requested technical assistance regarding SOD deployments for when a felony suspect is "barricaded" in a vehicle versus in a house or structure. Currently, SOD will not deploy for a suspect in a vehicle, and in a particular case, they encountered a subject who was armed, suicidal, and a wanted felon. SOD did not deploy due to current criteria but later did deploy when the subject moved from his vehicle to his house. The only factor that changed when SOD deployed was the subject moving to the house, but that movement may have created other safety issues. The vehicle deployment restriction was APD imposed, but we will continue to work with APD throughout the next monitoring period to address any concerns that arise and are CASA-centric. (P93–95; 100).

We reviewed Monthly Inspection Reports that were completed for August 2021 through January 2022 and determined that SOD continues to capture information regarding uniform cleanliness and completeness, equipment, proper identification markings, and whether an officer's Taser video recorder is working properly. (P98)

Regular FRB hearings of SOD cases have occurred throughout the IMR-15 reporting period. We noted that along with the tactical activations, we saw several use of force cases that occurred during this monitoring period also heard by the FRB.<sup>99</sup> Tactical activations are presented by a member of SOD, where any accompanying use of force is presented by IAFD. The FRB is responsible for making recommendations where concerns exist with policy, training, tactics, or supervision. During this monitoring period, we virtually attended meetings where SOD tactical presentations occurred and found them to be professionally delivered. SOD tracks their activations closely, and as noted in the last monitoring period, we saw cursory reviews of uses of force being conducted by the SOD Commander prior to tactical deployments being presented to the FRB. This was implemented in response to concerns when an SOD tactical activation and an accompanying use of force case are not delivered to the FRB simultaneously. This practice provides an opportunity to sift out potentially problematic cases where force is used and, when encountered, that smaller population of tactical deployment cases can be heard together (with the use of force). With IAFD and EFIT completing cases timelier and SOD completing AARs within days of an activation, if APD personnel responsible for the FRB remain administratively vigilant, operational compliance determinations for the FRB may soon be possible. (P99)

SOD tracks deployments through their Activation Data Reports, and we reviewed records that captured the year 2021 SOD presentations to the FRB, meeting agendas,

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<sup>99</sup> EFIT's involvement, as noted more extensively in Paragraphs 60-78, has allowed the FRB to receive and hear cases in a much timelier manner.

and referrals. We will continue to assess how the FRB reviews current SOD tactical activation cases in IMR-16.

For IMR-15, we reviewed Annual Assessment Reports completed for each SOD unit, and examples of Performance Work Plans for officers demonstrated that SOD completed Annual Assessments for its personnel. We encourage APD to look deeper at division and unit level policy provisions to ensure their personnel are assessed by correlating predetermined criteria. (P100)

The monitoring team reviewed SOD Tactical Unit Deployment Tracking Sheets for the monitoring period. APD continues to monitor and analyze the number, type, and characteristics of deployments and states a clear reason for each tactical deployment, as well as the number of arrestees in each deployment. The monitoring team was also presented with the SOD 2021 Annual Report, which was a comprehensive review of their activities throughout the previous year. The report captured information across all SOD areas of responsibility, most having some degree of CASA relevance, including an analysis of tactical activations. It was here we saw SOD documented 31 fewer tactical activations in 2021 than in 2020, and their attributing that drop in activations to closely adhering to call-out criteria. We found the 2021 Annual Report to be professionally presented and an excellent document for historical reference.<sup>100</sup> (P95-97; 102 - P105)

APD continues to track K9 deployments and bite ratios consistent with the monitor-approved methodology. In terms of deployments, SOD reported 1,043 K9 deployments in 2021, with 128 apprehensions and eight (8) with bite injuries.<sup>101</sup> The monitoring team reviewed a K-9 Bite Ratio report, post-bite reviews within SOD, and tracking ledgers documenting SOD K-9 handlers and K-9 bite ratios. As we noted in IMR-14, the SOD Commander and Deputy Commander are cognizant that less thorough reviews in the past contributed to officers being disciplined and reduced morale. We are equally confident they are interested in taking active measures to avoid such issues in the future.

SOD continues to demonstrate a positive attitude toward CASA compliance and commitment to sustain CASA compliance. In the opinion of the monitoring team, that commitment was sustained for IMR-14. Based on our meetings with SOD and review of documentation, we have determined operational compliance should be continued for Paragraphs 90 through 105.

#### **4.7.77 Assessing Compliance with Paragraph 90: Management of Specialized Units**

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<sup>100</sup> Following the close of IMR-15 APD proactively contacted the monitoring team regarding data regarding K9 deployments and indicated that their overall number was underreported by nine instances. The issue, like other general terms used by APD, emerged due to different interpretations of the word "deployment" and what it means for reporting purposes. The discrepancy (9), relative to the overall number of K9 deployments (1,041) is *de minimis* but will be followed up in the next monitoring period.

<sup>101</sup> K9 apprehensions with injury decreased by 18, from 26 in 2020 to 8 in 2021. That is a significant decrease year over year and is likely attributable to several factors. Among them are an increase in scrutiny by SOD Commanders of K9 activities, and a decrease in K9 handlers and overall authorized deployments.

Paragraph 90 stipulates:

**“To maintain high-level, quality service; to ensure officer safety and accountability; and to promote constitutional, effective policing, APD shall operate and manage its specialized units in a manner that increases the likelihood of safely resolving critical incidents and high-risk situations, prioritizes saving lives in accordance with the totality of the circumstances, provides for effective command-level accountability, and ensures force is used in strict compliance with applicable law, best practices, and this Agreement. To achieve these outcomes, APD shall implement the requirements set out below.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.78 Assessing Compliance with Paragraph 91: Composition of Specialized Tactical Units**

Paragraph 91 stipulates:

**“APD’s specialized tactical units shall be comprised of law enforcement officers who are selected, trained, and equipped to respond as a coordinated team to resolve critical incidents that exceed the capabilities of first responders or investigative units. The specialized tactical units shall consist of SWAT.**

## **Methodology**

The monitoring team reviewed training records for SWAT, K9, and Bomb Units during this reporting period. Special Operations Division maintains meticulous records throughout the entire Field Training and Evaluation Program via the Bomb Unit, K9 Unit, and OJT Handbook for individuals completing the program. For this reporting period, SWAT has eleven members assigned to on-the-job training, K9 has two members, and the Bomb Squad has no personnel scheduled for training.

The monitoring team reviewed material required for APD to maintain compliance with paragraph 91 for the reporting period (August 1, 2021, through January 31, 2022) in the forms of policy, programs, and results. The documentation reviewed included the date training took place, location, hours trained, overview, and the member receiving training.

Specialized Weapons and Tactics team training includes:

- Command and Control;
- Containment;
- Entry;
- Apprehension;
- Rescue;
- Weapons Proficiency;
- De-escalation;
- Use of Force;
- Crisis Intervention;
- Mission Analysis; and
- Defensive Tactics.

K9 Unit training includes:

- Area Search;
- Building Search;
- K-9 Obedience;
- Containment;
- Command and Control;
- Apprehension:
- Article search;
- Entry;
- Rescue;
- De-escalation;
- Use of Force;
- Crisis Intervention;
- Defensive Tactics; and
- Weapons Proficiency.

Bomb Squad training includes the following topics:

- Render Safe Procedures;
- CBRNE Events;
- Disposal Operations;
- Tactical Support;
- IED Concepts;
- Weapons Proficiency;
- Equipment Proficiency; and
- Explosives Familiarity.

Ledgers detailing joint training delivered during this reporting period were maintained and reviewed by the monitoring team, in order to assess compliance with the requirements of the CASA.

Ledgers are maintained for each month detailing the training delivered and included dates, location, overview, units receiving the training (SWAT, Bomb, K9), and operational functions trained (containment, rescue, command, and control, etc.).

## Results

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

### 4.7.79 Assessing Compliance with Paragraph 92: Training of Specialized Tactical Units

Paragraph 92 stipulates:

**“APD shall ensure that specialized tactical units are sufficiently trained to complete the following basic operational functions: Command and Control; Containment; and Entry, Apprehension, and Rescue.”**

## Methodology

APD provided course of business training data in the form of contemporaneous Special Operations Division Tactical Section training documentation for their SWAT Unit, Bomb Squad, and K9 Unit, as well as Crisis Negotiations Training. As listed in paragraph 92, the training covers numerous topics with ample time given to all aspects of training. Ledgers for each month detailing the training delivered contained dates, location, overviews, units receiving the training (SWAT, Bomb, K9), and operational functions trained (Command and Control, Containment, Entry, Apprehension, Rescue, etc.). The monitoring team reviewed ledgers detailing joint training delivered for compliance with the requirements of the CASA. During this reporting period, the monitoring team reviewed:

- Bomb Unit: 34 sessions of training;
- SWAT Unit: 18 sessions of training;
- K9 Unit 16 sessions of training;
- Crisis Negotiations: 3 sessions of training;
- Joint Unit training: nine sessions; and
- ROOK training: seven sessions.

## Results

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

#### **4.7.80 Assessing Compliance with Paragraph 93: Tactical Unit Missions and Policies**

Paragraph 93 stipulates:

**“Each specialized tactical unit shall have clearly defined missions and duties. Each specialized tactical unit shall develop and implement policies and standard operating procedures that incorporate APD’s agency-wide policies on use of force, force reporting, and force investigations.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.81 Assessing Compliance with Paragraph 94: Tactical Units Policy and Procedure**

Paragraph 94 stipulates:

**“APD policies and procedures on specialized tactical units shall include the following topics:**

- a) Team organization and function, including command relationships with the incident commander, Field Services Bureau, other specialized investigative units, Crisis Negotiation Team, Crisis Intervention Unit, crisis intervention certified responders, and any other joint or support elements to ensure clear lines of responsibility;**
- b) Coordinating and implementing tactical operations in emergency life-threatening situations, including situations where an officer’s view may be obstructed;**
- c) Personnel selection and retention criteria and mandated physical and tactical competency of team members, team leaders, and unit commanders;**
- d) Training requirements with minimum time periods to develop and maintain critical skills to include new member initial training, monthly training, special assignment training, and annual training;**
- e) Equipment appropriation, maintenance, care, and inventory;**
- f) Activation and deployment protocols, including when to notify and request additional services;**
- g) Conducting threat assessments to determine the appropriate responses and necessary resources;**
- h) Command and control issues, including a clearly defined command structure; and**
- i) Documented after-action reviews and reports.”**

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.82 Assessing Compliance with Paragraph 95: Annual Review of Tactical Policies

“The policies and standard operating procedures of specialized tactical units shall be reviewed at least annually, and revisions shall be based, at a minimum, on legal developments, training updates, operational evaluations examining actual practice from after-action reviews, and reviews by the Force Review Board or other advisory or oversight entities established by this Agreement.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.83 Assessing Compliance with Paragraph 96: Documentation of Tactical Activities

Paragraph 96 stipulates:

“In addition to Use of Force Reports, APD shall require specialized tactical units to document their activities in detail, including written operational plans and after-action reports created after call-outs and deployments to critical situations. After-action reports shall address any areas of concern related to policy, training, equipment, or tactics.”

## Methodology

The monitoring team was provided COB documentation for this reporting period (August 1, 2021, through January 31, 2022). The documentation reviewed by the monitoring team consisted of twenty-one (21) After Action Reports.

As in previous reporting periods, SOD maintains clear and concise records with detailed synopses of their involvement in the events. The deployment is analyzed for policy, training, equipment, and tactical issues/concerns.

Equipment – SOD has reached out to the different agencies that assist them with activations to address working on different radio frequencies which causes

communication issues during activations. This communication issue, not uncommon to most tactical activations in the nation, occurred during several activations, and the SOD Commander indicated in the review of the AAR's that the requirements of a tactical activation were met despite communications issues. The monitoring team will review future reports to ensure this communication issue is ameliorated.

Tactics – On two occasions, the wrong date of birth and address were given on a search warrant. The supervisor quickly addressed the issue. The SOD Commander indicated in the review of the AAR's that the requirements of a tactical activation were met.

SOD continues tracking tactical request denials and maintains logs on the findings. Tactical personnel assess tactical requests and determine whether the request meets the activation criteria as required by the SOP. The findings are communicated throughout the chain of command with documentation supporting the result.

SOD implemented two Operational Plans during this reporting period. The briefings were conducted with all members present prior to the start of the operations as required by the CASA.

SOD continues to demonstrate a positive attitude toward CASA compliance, both in meetings with members of the monitoring team and in their planning of in-field activations.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.84 Assessing Compliance with Paragraph 97: Tactical Mission Briefings

Paragraph 97 stipulates:

**“APD shall require specialized tactical units to conduct mission briefings before an operation, unless exigent circumstances require an immediate deployment. APD shall also ensure that specialized tactical team members designate personnel to develop and implement operational and tactical plans before and during tactical operations. All specialized tactical team members should have an understanding of operational planning.”**

## Methodology

Members of SOD gain an understanding of operational planning through material interwoven throughout all training that is delivered daily and documented on the training records supplied to the monitoring team.

SOD implemented two Operational Plans during this reporting period. The briefing was



conducted with all members present prior to the start of the operation, as required by the CASA to cover:

- Operational Plan Confidential;
- Structure;
- Vehicles;
- Safety Concerns; and
- Personnel Assignment.

Special Operations extensive training at all levels conform to best practices nationwide and the specifics of this paragraph. The detailed training to all SOP and CASA requirements is well documented and maintained in concise reports (detailed training records supplied for this report).

## **Results**

Primary:       **In Compliance**  
Secondary:     **In Compliance**  
Operational:   **In Compliance**

### **4.7.85 Assessing Compliance with Paragraph 98: Tactical Uniforms**

Paragraph 98 stipulates:

**“All specialized tactical units shall wear uniforms that clearly identify them as law enforcement officers.”**

## **Results**

Primary:       **In Compliance**  
Secondary:     **In Compliance**  
Operational:   **In Compliance**

### **4.7.86 Assessing Compliance with Paragraph 99: Force Review Board Assessments**

Paragraph 99 stipulates:

**“All specialized tactical unit deployments shall be reviewed by the Force Review Board in order to analyze and critique specialized response protocols and identify any policy, training, equipment, or tactical concerns raised by the action. The Force Review Board shall identify areas of concern or particular successes and implement the appropriate response, including modifications to policy, training, equipment, or tactics.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.87 Assessing Compliance with Paragraph 100: Eligibility Requirements for Tactical Teams**

Paragraph 100 stipulates:

**“APD shall establish eligibility criteria for all team members, team leaders, and supervisors assigned to tactical units and conduct at least annual reviews of unit team members to ensure that they meet delineated criteria.”**

#### **Methodology**

The monitoring team requested and received data from SOD for the reporting period August 1, 2021, through January 31, 2022. The monitoring also team received and reviewed the Annual Assessments for the APD SWAT Unit, K9 Unit, and Bomb Unit.

The Annual Assessments include:

- City Goals (Public Safety);
- APD Mission Statements;
- APD Strategy;
- APD Career Goals;
- Constitutional Policing;
- APD Integrity;
- Community policing;
- Critical Police Functions;
- Use of Force; and
- Inventory reviews.

The detailed reports submitted by SOD reflect that members from the SWAT, Bomb, and K9 units continue displaying exemplary work in Constitutional policing, integrity, community policing, and critical police functions. APD’s SOD remains in compliance with the requirements of this paragraph and constitutes, in the monitoring team’s assessment, a best practice in the management of tactical units and their personnel.

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.88 Assessing Compliance with Paragraph 101: Tactical Team Training**

Paragraph 101 stipulates:

**“APD shall train specialized tactical units conducting barricaded gunman operations on competencies and procedures that include: threat assessment to determine the appropriate response and resources necessary, mission analysis, determination of criminal offense, determination of mental illness, requirements for search warrant prior to entry, communication procedures, and integration of the Crisis Negotiation Team, the Crisis Intervention Unit, and crisis intervention certified responders.”**

### **Methodology:**

The monitoring team collected and reviewed training documentation for this reporting period (August 1, 2021, through January 31, 2022). The documentation supplied in the previous paragraphs demonstrates the training SOD requires all their personnel to receive on a regular basis. The training covers all the requirements of the CASA evidenced by the unit’s detailed reports, in accordance with national standards (National Tactical Officers Association) for high-risk tactical operations. The goals and objectives are well defined and trained by all units of SOD on a continual basis.

CNT continues to be an essential operational component in tactical activations during this reporting period, as documented in the previous paragraphs. The training consisted of, but was not limited to, the following:

- Scenario training (allowing members to switch roles to learn all aspects of team roles), team dynamics;
- Threat assessments and negotiation/de-escalation skills; and
- Identify open sources.

### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.89 Assessing Compliance with Paragraph 102: K-9 Post Deployment Reviews**

Paragraph 102 stipulates:

**“APD shall continue to require the Canine Unit to complete thorough post- deployment reviews of all canine deployments.”**

### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**

Operational: **In Compliance**

#### **4.7.90 Assessing Compliance with Paragraph 103: Tracking K-9 Deployments**

Paragraph 103 stipulates:

**“APD shall continue to track canine deployments and canine apprehensions, and to calculate and track canine bite ratios on a monthly basis to assess its Canine Unit and individual Canine teams.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.91 Assessing Compliance with Paragraph 104: Tracking K-9 Bite Ratios**

Paragraph 104 stipulates:

**“APD shall include canine bite ratios as an element of the Early Intervention System and shall provide for the review, pursuant to the protocol for that system, of the performance of any handler whose bite ratio exceeds 20 percent during a six-month period, or the entire unit if the unit’s bite ratio exceeds that threshold and require interventions as appropriate. Canine data and analysis shall be included in APD Use of Force Annual Report.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.92 Assessing Compliance with Paragraph 105: Analyzing Tactical Deployments**

Paragraph 105 stipulates:

**“APD agrees to track and analyze the number of specialized tactical unit deployments. The analysis shall include the reason for each tactical deployment and the result of each deployment, to include: (a) the location; (b) the number of arrests; (c) whether a forcible entry was required; (d) whether a weapon was discharged by a specialized tactical unit member; (e) whether a person or domestic animal was injured or killed; and (f) the type of tactical equipment deployed. This data analysis shall**

**be entered into the Early Intervention System and included in APD's annual reports."**

## **Methodology**

The 2021 Tactical Activation Analysis for this reporting period (August 1, 2021, through January 31, 2022) consisted of twenty-one (21) activations. The required training elements of the Specialized Tactical Units are well established and documented in paragraphs 90 through 105. SOD's adherence to all requirements of these paragraphs and their attention to detail, self-monitoring, and analysis of these activations has allowed them to succeed and continue to provide high-quality services. Records identify the quantity, type, and characteristics of deployments.

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **Monitor's Notes:**

1. SOD should clearly define the term "tactical response" and submit it to the parties for comment. Once resolved, that term should be clearly defined in policy and call-out protocols.
2. SOD should resolve the issue regarding response criteria for instances in which the score on a Risk Assessment Matrix (RAM) is completed by a non-SOD Division and fails to meet the minimum score of 25, yet the non-SOD Division feels a situation would be best addressed by a tactical response.
3. SOD should refine its routine training documentation to better reflect academy standards. Routine training lesson plans should identify performance criteria for training, methods to measure the transfer of learning (i.e., tests or other assessment forms), and documentation of the performance of each specific officer during the training.
4. SOD should ensure that policy updates contemplate and reflect lessons learned since the last revisions.

**4.7.93 – 4.7.96 Assessing Compliance with Paragraphs 106-109: Special Unit Policies, and accompanying paragraphs focused on the Special Investigation Division.**

Paragraphs 106 – 109 of the CASA address requirements that APD must meet related to management and supervision of functions inside the Special Investigation Division (SID)<sup>102</sup> as follow:

Paragraph 106: Specialized Unit Policies

Paragraph 107: High Risk Situation Protocols

Paragraph 108: Inspection of Specialized Units

Paragraph 109: Tracking Specialized Unit Responses

Generally, CASA paragraphs centered on the Investigative Services Division (ISD) are designed to help the agency create an administrative foundation that ensures investigative activities are organized and documented to support wider changes in the department. Based on our review of documentation that was provided, those administrative underpinnings were sustained throughout the IMR-15 reporting period.

In the past few monitoring reports, we commented that APD would be wise to examine all investigative divisions to ensure they are properly conditioned to support wider reform efforts and not become complacent with ISD's compliance standing. In the past, we noted that responsibility for use of force operational compliance determinations exist in every corner of the department, and investigative units play an important role in reaching wider organizational compliance. We will not repeat previous guidance here but encourage ISD to keep close oversight of field operations and to be vigilant for ISD supervision failures that could have detrimental implications on organizational goals. As we note later in this report, particular attention must be given toward establishing proper protocols, supervisory roles, and rules of engagement for hasty, ad hoc investigative initiatives that include multiple APD units. We noted the existence of disagreement between ISD and SOD with respect to supervisory roles (where SOD personnel were assigned temporarily under ISD) during one event which resulted in a questionable use of force [IMR-15-21], and conflicting expectations concerning when SOD response is requested by ISD and under what circumstances they will deploy. Since we have encountered this before, it is our opinion that executive-level personnel must quickly engage and resolve this conflict.

The Performance Metrics Unit (PMU) continued audits of ISD, and we reviewed records to confirm that the audits continued during the IMR-15 reporting period. Previously, PMU noted issues with OBRD compliance, specifically requirements to upload videos by the end of the subsequent shift, and that continued in IMR-15. However, the issue was not confined to one unit within ISD, and instead occurred in several different units during this monitoring period. Over the past few years, members of the monitoring team have expressed concern over APD officers and detectives not being required to upload OBRD videos by the end of the shift in which they are created. OBRDs are evidence, not unlike other types of evidence, that must be accounted for before an officer/detective leaves on authorized leave. There is an increased risk to the organization and the integrity of OBRD evidence that APD senior executives have not recognized or embraced. We find

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<sup>102</sup> The monitoring team has been advised that the Special Investigations Division has been renamed the Investigative Services Division (ISD) and henceforth will be referenced accordingly.

it problematic that, to date, we have been presented with no legitimate reason that OBRDs are not uploaded by the end of the shift in which they are created.

During our November 2021 site visit, we met with the ISD Commander responsible for the tasks associated with CASA compliance. The commander came prepared to discuss ISD compliance and was conversant with the processes of the CASA and ISD responsibilities. He was forthright in his concern over the coordination of SOD call outs and the scoring of RAMs conducted by ISD prior to executing a search warrant. We also discussed disagreements that existed during a specific incident in which SOD personnel were assigned on temporary duty to an ISD crime initiative.<sup>103</sup>

In December 2020 (IMR-13), we attended a meeting between ISD (then called SID) and SOD to discuss the interplay between the Divisions with respect to SOD call-out protocols. The ISD Commander (at the time) wanted the monitoring team's perspective on SOD providing services in circumstances that may pose an elevated risk but may not specifically fall within the SOD call-out protocols. We followed up on progress APD made during the IMR-14 reporting period and believed the issue had been resolved.<sup>104</sup> However, the issue has re-emerged in this monitoring period.

We requested and were provided with data to review that APD believed would demonstrate their continued compliance with Paragraphs 106-109. The monitoring team considered documentation relative to ISD to demonstrate that the business processes that helped establish operational compliance continued. Specifically, the following documentation was reviewed:

1. SID SharePoint Records;
2. SID Unit Handbooks;
3. SID Training Records;
4. SID Inspection Forms;
5. Operational Plans / After Action Reports;
6. Internal Memorandums and Department Circulars for Transfers, and Transfer In and Out Forms; and
7. Risk Assessment Matrix (RAM) forms and Ledgers, and SOD Audit Memorandums.

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<sup>103</sup> [IMR-15-21] During the apprehension of a wanted felony suspect a member of SOD, who was temporarily assigned to assist with a 45-day crime reduction initiative, was running after a suspect and deployed an NFDD in violation of APD policy. This case was investigated by IAFD and overseen by EFIT. IAFD Command felt the case was in policy and EFIT disagreed, further documenting that certain of the officer's statements were inconsistent with their OBRD policy. After EFIT expressed their reasoning, the case was elevated to the deputy chief level and APD's final decision agreed with EFIT's, and the use of force was deemed out of policy. We also note that the officer had prior disciplinary matters at SOD and was moved from that unit due to out of policy uses of force; however, APD moved him back to SOD temporarily. He was then placed on the crime reduction initiative and again used force against APD policy. We are perplexed at this seemingly deliberate negligence displayed by APD in this matter.

<sup>104</sup> The issue centered on situations in which a RAM score may not meet the 25-point threshold for a SOD call out, but the unique circumstances of a particular case may be better addressed by SOD involvement. ISD instituted a mandate that certain scoring criteria within a RAM, if applicable, carry enough risk that they require an automatic consultation with SOD even without reaching the 25-point threshold.

The following represents our findings related to Paragraphs 106-109.

With respect to ISD and SOD cooperation during investigative processes, we reviewed internal ISD memoranda that documented their concerns. Likewise, in January 2022, a monitoring team member was asked to take part in meetings between deputy chiefs who oversee SOD and ISD to provide technical assistance.<sup>105</sup> Our impression is that both commands are interested in personnel safety, operational effectiveness, risk mitigation, and CASA compliance. Consequently, some situations are encountered in which an internal difference of opinion emerges that can only be resolved by these commands considering (first) what is in the organization's best interest as it relates to each of those four factors. We also note that SOD has been contemplative in their assessments of cases, and we do not want to inadvertently dissuade their due diligence when making deployment decisions. That said, where disagreement cannot be resolved between ISD and SOD, then executive-level intervention is necessary, which now appears to be taking place. A key unresolved issue rests in defining what constitutes a "tactical response" in the context of CASA compliance. Paragraph 107 states:

"APD shall prohibit specialized investigative units from providing **tactical responses** to critical situations where a specialized tactical unit is required. APD shall establish protocols that require communication and coordination by specialized investigative units when encountering a situation that requires a specialized **tactical response**. The protocols shall include communicating high-risk situations and threats promptly, coordinating effectively with specialized tactical units, and providing support that increases the likelihood of safely resolving a critical incident." (Emphasis added)

As part of our January 2022 meetings with the two APD deputy chiefs, the deputy chief responsible for ISD expressed concern over two instances in which SOD would not deploy: (1) Instances where, in ISD's estimation, the circumstances of a particular event would best be better addressed by leveraging the training and experience of SOD, or (2) ISD submits a RAM with a score that meets or exceeds 25 points, but SOD reviews the RAM and disagrees with the score.<sup>106</sup>

Properly defining "tactical responses" is key to APD successfully moving forward, as it will inform several decisions. The Risk Assessment Matrix (RAM) was created by a SOD Commander at the early stages of this project and, at the time, was an innovative effort to create criteria for when SOD would respond to an event. The monitoring team has commented on several occasions that the RAM was likely in need of an update. In past monitoring periods, we questioned the narrow scope of the RAM since it is centered on events, generally preplanned, in which search warrants have been obtained by ISD. That does not include other high-risk events ISD may encounter that may better be

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<sup>105</sup> At the request of the monitoring team a member of DOJ took part in a follow up meeting with SOD and ISD Deputy Chiefs on this same topic.

<sup>106</sup> Previously, APD set the protocol that the final decision of scoring a RAM rests with the SOD Commander.



addressed by SOD because of their specialized training and experience. These middle-area events and decisions as to the proper APD Division that should deploy, are an exemplar of why the monitoring team has called out the importance of choosing SOD Commanders that possess the right temperament, experience, and sophistication. We believe that exists today. In fact, during our November 2021 site visit, the ISD Commander indicated that the SOD Commander had taken the initiative to update the RAM and sought out ISD feedback on how to make it better. However, it leaves unresolved the issue of non-search warrant events.

ISD is experiencing concerns that emerge when they want SOD assistance, but the event fails to meet SOD's set response criteria. During our January 2022 meeting, the ISD Deputy Chief noted that in instances in which SOD will not deploy, ISD might not be properly equipped based on the potential safety risks of some events. We were told that ISD was concerned with safety and the perception that they are moving toward activities that may violate the provisions of Paragraph 107. ISD is grappling with whether to equip ISD detectives with tactical-style equipment when they feel a tactical response is necessary and SOD will not respond. We understood and, frankly, this is a concern the monitoring team and DOJ shared.<sup>107</sup> Simply put, this is an APD executive-level decision that should contemplate all relevant factors facing the agency. It is encouraging that the issue was brought to our attention by ISD preemptively.<sup>108</sup> We highly encourage APD to resolve this as soon as practicable, since these are recurring events that, if not handled appropriately, could put APD in violation of Paragraph 107.

APD launched a 45-day crime reduction initiative during this reporting period, which included SOD personnel assigned to temporary duty with ISD detectives. Felony offenders with warrants were targeted for arrest in this initiative. Moving SOD into non-tactical, investigative initiatives naturally brings supervisory challenges, and this was no exception. During one arrest attempt [IMR-15-21], a SOD officer, temporarily assigned to the initiative, deployed an NFDD in a manner inconsistent with APD's use of force policies.<sup>109</sup> Since SOD carries use of force tools that exceed other organizational units, presetting supervisory protocols is critical. The use of some tools requires authorization, and this SOD member, in the heat of a foot pursuit, deployed the NFDD under circumstances that are not usual for SOD. In our meetings with the ISD and SOD Commanders, they understand the issue and they have committed to setting the proper protocols and supervisory oversight for such initiatives. We see this as a critical issue that APD executives should closely monitor to avoid future similar situations.

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<sup>107</sup> Since APD personnel can easily move from SOD to ISD, we share the concern that over time there could be a risk that ISD will take on responsibilities that implicate Paragraph 107.

<sup>108</sup> The monitoring team was told that the impetus for the discussion was a situation where a RAM was completed by ISD and the score exceeded 25 points, but SOD saw the scoring differently and when recalculated the score fell below 25 points and therefore an SOD response did not occur.

<sup>109</sup> The officer had prior disciplinary matters at SOD and was moved from that unit due to out of policy uses of force, but APD moved him back to SOD temporarily. He was then placed on the crime reduction initiative and again used force against APD's use of force policy.

As referenced above, ISD consults with SOD for specific types of search warrants and is required to fill out a Risk Assessment Matrix (RAM)<sup>110</sup> to determine if they are required to call out SOD. During the IMR-15 reporting period, we reviewed data for four (4) separate events and one (1) RAM audit prepared by SOD. The auditing of data by SOD continued appropriately during this reporting period. Some criteria reference past incidents involving either a suspect or suspect's residence within the RAM. (For instance, "Subject of the warrant has violent criminal history (within past ten years)"). On one RAM we reviewed, we saw more than a score and attachments but also saw case numbers listed as notations for several criteria. We saw this as a valuable approach to the documentation and gives any auditor a quick reference to understand the specific case considered when the score was determined.

Our review of RAM audit documentation revealed the process put in place to oversee investigative use of the RAM has continued as previously described to the monitoring team.

ISD previously developed and implemented unit-level handbooks that set forth the unique standards, mission, and duties for each of its subordinate units, which have been updated and standardized in format across all ISD units. The handbooks from each unit serve several purposes, including ISD incorporating and reinforcing APD's use of force policies and including the provisions of the CASA. The monitoring team was provided course of business documentation that allowed us to track initial Department Circulars announcing openings in ISD, to an officer's assignment and initial training. We reviewed "Transfer In and Out Forms" that were completed and could cross-reference those forms against the same ISD personnel who were transferred into or out of the Division during this reporting period. These forms assist in the proper tracking of equipment assigned to detectives.

ISD previously implemented a procedure in which they self-audit SharePoint records to ensure that proper information related to CASA compliance is captured. The monitoring team reviewed SharePoint records between August 1, 2021, and January 31, 2022, and found they contained the required information. We also reviewed two internal memoranda prepared by ISD (Dated October 14, 2021, and January 19, 2022) of self-audits of SharePoint and RAM reports. In the past, the memoranda of audited SharePoint records specifically documented that during the audit no issues or discrepancies were identified within the records. These two memoranda documented the steps that were taken during the audit, but not an affirmative statement that the audit of SharePoint revealed no discrepancies.

During the past several reporting periods We commented that investigative operational plans and after-action reports need improvement. When we previously discussed this with the new ISD Commander, he acknowledged the Division could improve its

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<sup>110</sup> There are pre-set and scored categories APD units must consider when filling out a RAM, and a score of 25 or more requires a SOD call out. Units are also required to append proofs that they made inquiries for specific risk categories (i.e., An assessment as to whether the suspect has a violent history requires criminal histories to be attached).

documentation in these areas. For IMR-15, we reviewed twenty-five (25) Operational Plans and (31) After-Action Reports prepared within ISD. ISD previously implemented a standard After-Action Report that consists of a checklist and narrative that resembles APD's use of force reports. The report provides a detective an opportunity to include relevant information related to a particular event and document areas of improvement to policy, training, or operational methods. We saw examples where the After-Action Report contained good detail and others with scarce detail. We also saw an event (Dated August 20, 2021) where again there was disagreement between ISD and SOD regarding a refusal to respond to assist, and ISD made a recommendation for a policy revision.

The monitoring team was provided with the ISD 2021 Annual Review, a comprehensive report of relevant information related to ISD during the year. The report's structure is easy to follow, and the front portion of the report directly addresses its CASA paragraphs and steps taken within each responsibility. Missing from the report were references to concerns with SOD response protocols or steps taken to resolve those issues. While we recognize that ISD has been proactive in documenting its concerns, as noted above, there must be an executive resolution that supports the needs of the organization while effectively balancing CASA compliance. We will monitor this issue in our next report, IMR-16.

Based on our documentation review, we determined that operational compliance is maintained by SID for paragraphs 106-109 for this reporting period.

#### **4.7.93 Assessing Compliance with Paragraph 106: Specialized Unit Policies**

Paragraph 106 stipulates:

**“Each specialized investigative unit shall have a clearly defined mission and duties. Each specialized investigative unit shall develop and implement policies and standard operating procedures that incorporate APD’s agency-wide policies on use of force, force reporting, and force investigations.”**

#### **Results**

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

#### **4.7.94 Compliance with Paragraph 107: High Risk Situation Protocols**

Paragraph 107 stipulates:

**“APD shall prohibit specialized investigative units from providing tactical responses to critical situations where**

**a specialized tactical unit is required. APD shall establish protocols that require communication and coordination by specialized investigative units when encountering a situation that requires a specialized tactical response. The protocols shall include communicating high-risk situations and threats promptly, coordinating effectively with specialized tactical units, and providing support that increases the likelihood of safely resolving a critical incident.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.95 Compliance with Paragraph 108: Inspection of Specialized Units**

Paragraph 108 stipulates:

**“Within three months of the Operational Date, APD shall conduct an inspection of specialized investigative units to determine whether weapons and equipment assigned or accessible to specialized investigative units are consistent with the units’ mission and training. APD shall conduct re-inspections on at least an annual basis.”**

## **Methodology**

The monitoring team reviewed and examined the data required for APD to maintain compliance with paragraphs 108 for the reporting period (August 1, 2021, through January 31, 2022.)

The Investigative Service Division (ISD) conducted random inspections utilizing a twenty-five percent sampling of the personnel assigned to ISD. ISD property cards for each randomly selected member of ISD were utilized to ensure that each member had all assigned equipment that corresponded to itemized equipment on cards. ISD also checked the APD property card to ensure that all equipment assigned to their members was accounted for and in working order. During this reporting period, a physical inspection was conducted on all vehicles assigned to unit members. All were accounted for, including vehicles that were removed from use.

During this reporting period's November 2021 site visit, additional equipment assigned to ISD maintained in storage, such as long rifles, shotguns, back-up weapons, and 40 mm launchers were documented on reports submitted to the monitoring team. A live inspection was conducted of the equipment maintained in the secured locker room. The supporting documentation supports the monitoring team's findings that all storage equipment was accounted for and properly stored.

Additionally, an Interoffice Memorandum dated February 8, 2022 (Yearly Inspection of all division Units) in part states that equipment assigned to all units within ISD was located and verified. The monitoring of these inspections (by APD) continues on an annual basis. Based on the site visit inspection and the COB documentation supplied to the monitor, ISD remains in compliance with the CASA requirements for this paragraph.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.96 Assessing Compliance with Paragraph 109: Tracking Specialized Unit Responses

Paragraph 109 stipulates:

**“APD agrees to track and analyze the number of specialized investigative unit responses. The analysis shall include the reason for each investigative response, the legal authority, type of warrant (if applicable), and the result of each investigative response, to include: (a) the location; (b) the number of arrests; (c) the type of evidence or property seized; (d) whether a forcible entry was required; (e) whether a weapon was discharged by a specialized investigative unit member; (f) whether the person attempted to flee from officers; and (g) whether a person or domestic animal was injured or killed. This data analysis shall be entered into the Early Intervention System and included in APD’s annual reports.”**

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

Monitor’s Note:

Although Paragraphs 106-109 are in operational compliance, the monitor makes the following suggestions as areas that could be improved upon:

- ISD should continue to monitor the adoption of use of force policies and ensure that they properly operationalize those policies when a member of their Division uses any type of force;
- ISD should conduct independent audits of arrests and Level 1 uses of force reported by members of SID to ensure they are properly classified;

- ISD should review the quality of Operational Plans to ensure they are thorough and are used as a tool for safety and compliance;
- ISD and SOD should continue to work together to ensure that RAM records are accurate, and that ISD properly uses SOD for search warrants;
- ISD and SOD should work together to ensure non-search warrant events that carry organizational risk factors are properly assessed from an executive-level; and
- APD should create clear supervisory protocols and rules of engagement for initiatives that intersect ISD and SOD since SOD personnel carry use of force tools that exceed other agency units and require specific supervisory authorizations.

#### **4.7.97 Assessing Compliance with Paragraph 110: Individuals in Crisis and Related Issues**

Paragraph 110 stipulates:

**“To maintain high-level, quality service; to ensure officer safety and accountability; and to promote constitutional, effective policing, APD agrees to minimize the necessity for the use of force against individuals in crisis due to mental illness or a diagnosed behavioral disorder and, where appropriate, assist in facilitating access to community-based treatment, supports, and services to improve outcomes for the individuals. APD agrees to develop, implement and support more integrated, specialized responses to individuals in mental health crisis through collaborative partnerships with community stakeholders, specialized training, and improved communication and coordination with mental health professionals. To achieve these outcomes, APD agrees to implement the requirements below.”**

This overarching paragraph encompasses the entire Crisis Intervention section of the CASA. As such, this paragraph will not be in full compliance until such time as other related required paragraphs are found to be fully in compliance, including those addressing APD’s use of force related to individuals experiencing mental health crises.

During prior reporting periods, the monitoring team expressed concern about APD’s frequency of use of force against people in crisis and people with mental illness. We remain concerned about APD’s lack of progress toward the requirements of this paragraph, among others. In the Use of Force section of this report, we provide additional updates on these issues. APD’s responsiveness to some of our recent

recommendations is commendable; however, APD has a great deal to accomplish in order to achieve compliance with Paragraph 110.

The monitoring team also notes the complexities that may arise from the City of Albuquerque's creation of a separate, non-sworn department to respond to some of the calls for service currently addressed by APD. Separate entities have the potential to create confusion, unclear lines of responsibilities, and disparate "systems" for responses to mental health issues in Albuquerque's various communities. How Albuquerque's Community Safety Department (ACS)<sup>111</sup> coordinates and collaborates with APD and avoids duplication of effort remains to be seen. ACS's development progressed throughout this reporting period, including the launch of its patrol function through which it responds to 911 calls for service.<sup>112</sup> Additional comments regarding ACS and its relationship to the requirements of the CASA appear in paragraphs throughout this section. The monitoring team will continue to assess closely ACS's development and implementation to understand how it affects APD's responses to crisis and mental health-related calls for service<sup>113</sup> and levels of compliance throughout this section of the CASA, including our reviews of related policies. Now that ACS is operational, the monitoring team will assess the overlapping responsibilities (if any) among the APD's Mobile Crisis Teams (MCT), COAST, and the ACS responders. See our related analysis in Paragraphs 111, 113, and 130 below.

We also note the City's progress to implement a homeless shelter during this reporting period, releasing a draft operations plan for the Gateway Center in August 2021<sup>114</sup> and securing the proper zoning in November 2021.<sup>115</sup> As with the ACS, the monitoring team will continue to assess the Gateway Center's development to understand how it might affect APD's responses to crisis calls for service and follow-up activities.

## Results

While many reviews and revisions are underway, many of the policies in this suite are past-due for review and revision. Without appropriately updated policies, proper

<sup>111</sup> October 13, 2021. "Albuquerque Community Safety Responders Hit the Streets" City of Albuquerque Mayor's Office News Releases; may be accessed at: <https://www.cabq.gov/mayor/news/albuquerque-community-safety-responders-hit-the-streets>

<sup>112</sup> September 11, 2021. "ABQ's Community Safety Department launches patrols," Albuquerque Journal; may be accessed at <https://www.abqjournal.com/2428380/abqs-community-safety-department-launches-patrols.html>

<sup>113</sup> October 13, 2021. "New department eases load on police, fire crews," Albuquerque Journal; may be accessed at <https://www.abqjournal.com/2437479/citys-community-safety-department-is-up-and-running.html>

<sup>114</sup> August 3, 2021. "City releases draft operating plan for Gateway Center." Albuquerque Journal, accessible at: <https://www.abqjournal.com/2416213/city-releases-draft-operating-plan-for-gateway-center.html>. See also, "Gateway Center at Gibson Health Hub Operations Plan, August 2021, Draft," City of Albuquerque Family and Community Services, accessible at <https://www.cabq.gov/family/documents/operations-plan-draft-8-21-conditional-use-app.pdf>. See also "City of Albuquerque Office of Administrative Hearings Zoning Hearing Examiner Notification of Decision," accessible at <https://www.kob.com/kobtvimages/repository/cs/files/VA-2021-00317%20NOD.PDF>

<sup>115</sup> November 4, 2021. "What are the next steps for the Gateway Center?" KOB 4; may be accessed at <https://www.kob.com/albuquerque-news/what-are-the-next-steps-for-the-gateway-center/6291693/>

training is not feasible, and operational compliance is not attainable. In the monitoring team's experience, mental health practices are continually evolving. New practices are developed, and old practices are revised, updated, and re-crafted – a notion that holds particularly true as the City plans for reform in this area. APD is in primary compliance for this paragraph—it has policies in place. Until these policies are updated regularly, we caution APD to be circumspect about re-training its officers regarding mental health practices, absent these updates.

However, we note that the policy review processes, as they are currently implemented, allow for comment periods from stakeholders within the Albuquerque community, robust discussion with members of MHRAC, and opportunities for APD officers to offer comments. SOP 3-52 (formerly SOP 3-29) "Policy Development Process," explains MHRAC's role in policy review and development.<sup>116</sup> The monitoring team notes that delays in policies generate delays in training, which lead to delays in forming CASA-congruent supervisory processes, which are the very definition of non-compliance.

The policies relevant to crisis intervention went through various stages of the review process during this reporting period, but few were completed, leaving most of them overdue for review. Throughout this reporting period, the APD endeavored to move all the policies relevant to Paragraph 110 onto the same revision cycle. SOP 2-85 *Certificates for Evaluation*, for example, was considered at the Policy and Procedures Review Board (PPRB) meeting in October 2021, while SOP 2-19 *Responses to Behavioral Health Issues* was considered at the Policy and Procedures Review Board (PPRB) meeting in January 2022, which is the last month of this reporting period. Moreover, MHRAC provided feedback to SOP 2-19 in January 2022, which is now available on MHRAC's website.<sup>117</sup> We also note that APD sent to MHRAC for review a *Special Order concerning Searches on Behavioral Health Transports* in January 2022 for its review and comment.

See Table 4.7.97 on the following page.

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<sup>116</sup> Specifically, SOP 3-52 states, "Any policy related to the Department's approach to interacting with individuals in crisis will be forwarded to the Mental Health Response Advisory Committee (MHRAC) for review and comment. This will be done two weeks in advance of OPA and the chairs of MHRAC will be invited to attend OPA and PPRB." Accessible at: <https://documents.cabq.gov/police/standard-operating-procedures/3-52-policy-development-process.pdf>

<sup>117</sup> City of Albuquerque, Mental Health Advisory Committee Policy Recommendations, "MHRAC Feedback 2-19 Response to Behavioral Health Issues," accessible at: <https://www.cabq.gov/mental-health-response-advisory-committee/documents/mhrac-feedback-sop-2-19.pdf>



**Table 4.7.97 Policy Renewal Status for Behavioral Health Policies**

Policy	Policy name (Relevance to 110)
SOP 1-20	BEHAVIORAL SCIENCES SECTION. APD's online SOP Manual indicates this policy was Effective 11/30/20 and due for Review on 11/30/21.
SOP 1-28	DOWNTOWN UNIT. APD's online SOP Manual indicates this policy was Effective 8/23/21 and is due for Review on 8/23/22. This policy is currently up-to-date.
SOP 1-37	CRISIS INTERVENTION SECTION (CIS) AND PROGRAM. APD's online SOP Manual indicates this policy was Effective 2/23/21 and due for Review on 2/23/22.
SOP 2-8	USE OF ON-BODY RECORDING DEVICES. APD's online SOP Manual indicates this policy was Effective 2/15/21 and due for Review on 2/15/22.
SOP 2-19	RESPONSE TO BEHAVIORAL HEALTH ISSUES. APD's online SOP Manual indicates this policy is up-to-date with an Effective date of 4/2/21 and due for Review on 4/2/22.
SOP 2-20	HOSTAGE SITUATIONS, BARRICADED INDIVIDUALS, AND TACTICAL THREAT ASSESSMENTS. APD's online SOP Manual indicates the most recent version of this policy was Effective August 5, 2019 and was due for Review August 5, 2020.
SOP 2-85	CERTIFICATES FOR EVALUATION. This policy is currently up-to-date, with an Effective date of 2/28/22 and review due 8/28/22 per APD's online SOP Manual.

## Results

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **Not In Compliance**

### ***Recommendation for Paragraph 110:***

***4.7.97a: Implement a detailed monitoring system for policy review to ensure that revisions are updated and trained in a timely manner. APD is reminded that policies in the table above that are past due and are related to high-risk critical tasks directly associated with the CASA's requirements.***

### **4.7.98 – 4.7.115 Assessing Compliance with Paragraphs 111- 128: Mental Health Response Issues.**

Paragraphs 111-128 address how APD and the City are required to respond to calls involving mental health and homelessness. In determining compliance outcomes for these paragraphs, the monitoring team reviewed normal course-of-business documentation related to the City's responses to individuals in crisis and individuals who are unsheltered. We discuss our findings below.

We note that APD has met, and in many cases far exceeded, the requirements of the CASA as it relates to mental health response planning, crisis intervention, and service delivery. Our review indicates that APD crisis outreach services personnel have continued to work diligently with MHRAC to assess, improve, and serve affected communities.

However, while we also note that while APD's crisis intervention system has produced work that consistently demonstrates creativity and community responsiveness, the same is not true of the Field Services Bureau (FSB). In short, to be effective, specialized units, and to a lesser extent, FSB elements need to take note of the specialized needs of some communities and tailor overall response processes to better protect and serve these communities, as well as the community as a whole. The monitoring team will continue to explore those disconnects in future reports.

In assessing the City's compliance with these paragraphs, we reviewed City processes designed to:

- Structure and improve mental health processes in the community;
- Foster close coordination between APD, other City resources, and mental health leaders; and
- Create meaningful, flexible, and effective mental health services throughout the communities served by the City and APD.

#### **4.7.98 Assessing Compliance with Paragraph 111: Mental Health Response Advisory Committee**

Paragraph 111 stipulates:

**“Within six months of the Operational Date, APD and the City shall establish a Mental Health Response Advisory Committee (Advisory Committee) with subject matter expertise and experience that will assist in identifying and developing solutions and interventions that are designed to lead to improved outcomes for individuals perceived to be or actually suffering from mental illness or experiencing a mental health crisis. The Advisory Committee shall analyze and recommend appropriate changes to policies, procedures, and training methods regarding police contact with individuals with mental illness.”**

The community's Mental Health Response Advisory Committee (MHRAC) continued its successes during this reporting period as it transitioned to new leadership. MHRAC's new co-chairs led monthly meetings that often involved highly detailed discussions of problems, issues, needs, and solutions. MHRAC's reports, recommendations, communications, and assessment processes during this reporting period continue to be a source of valuable insight for APD's mental health, crisis intervention, and

homelessness operational strategies, especially as we continue to face the challenges of the COVID-19 pandemic.

## Methodology

In assessing compliance with this paragraph, the monitoring team attended monthly online MHRAC meetings via Zoom and reviewed the following documentation:

- MHRAC's reports, recommendations, communications, and processes during this reporting period, including the 2021 MHRAC Co-Chairs Annual Report, the Training subcommittee Annual Report, and the Information Sharing and Resources Subcommittee Annual Report;
- Meeting agendas and minutes for MHRAC meetings;<sup>118</sup>
- Meeting agendas, minutes, and recordings for subcommittee meetings;
- Various communications regarding policy and/or training reviews between APD and MHRAC.

## Results

The monitor remains encouraged by the stable membership of MHRAC and the robust attendance at MHRAC meetings during this reporting period. There was continued discussion about MHRAC membership, voting status, and MHRAC's bylaws<sup>119</sup> during this period. While there were several discussions about MHRAC's bylaws throughout the reporting period – including a disagreement about which, if any, city entities should be voting members of MHRAC -- those bylaws have not yet been formally updated or amended. This issue still requires attention.

Participation has increased substantially since the meetings have been taking place online via Zoom (due to the COVID-19 pandemic). The monitoring team observed the monthly online (via Zoom) MHRAC meetings in August-November 2021 and January 2022. MHRAC continues on the right path, which will eventually lead MHRAC to sustainability. MHRAC continues to address emerging issues within sub-committees, including the Training Subcommittee and the Information Sharing/Resources Subcommittee. The two MHRAC subcommittees met regularly during this reporting period as well. The two tables below briefly describe major topics covered during MHRAC meetings and subcommittee meetings.

In addition to the topics discussed during MHRAC meetings, a review of emails and other communications demonstrated that MHRAC members also addressed a variety of other issues during this reporting period--the most important being MHRAC's role in the City's new Albuquerque Public Safety Department (ACS) and the new Gateway Center

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<sup>118</sup> MHRAC meeting agendas and minutes are available at: <https://www.cabq.gov/mental-health-response-advisory-committee/mental-health-response-advisory-committee-agendas-minutes>

<sup>119</sup> MHRAC's bylaws are available on the City's website at the following link: <https://www.cabq.gov/mental-health-response-advisory-committee/documents/bylaws-of-mental-health-response-advisory-committee.pdf>. The bylaws were adopted June 16, 2015 and amended November 15, 2016.

at Gibson Health Hub homeless shelter. While some confusion persisted throughout this reporting period about whether and how MHRAC would be involved in the development and implementation of ACS and the Gateway Center, it was less than during the last reporting period. Communications between MHRAC and ACS seem to have improved somewhat, and the monitoring team will continue to track the cooperation between the entities as well as continue to reiterate our position that ACS and the new Gateway Shelter at Gibson Health Hub are within the purview of MHRAC per Paragraphs 111, 113, and 130. We also note that members of the APD's CIS have spent considerable time consulting with ACS leadership on the development of policies and training.

Table 4.7, on the following page, presents a synopsis of MHRAC engagement during the reporting period.

**Table 4.7.98a Dates and Topics of IMR-13 Reporting Period MHRAC Meetings**

<b>Reporting period month</b>	<b>Meeting date</b>	<b>Issues discussed</b>
August 2021	8/17/21	ACS update; Gateway Center update; MHRAC bylaws; APD CIU update; COAST update; subcommittee updates.
September 2021	9/21/21	ACS update; Gibson Health Hub / Gateway update; MHRAC/APD feedback mechanisms; MHRAC bylaws; APD CIU update; COAST update.
October 2021	10/19/21	ACS update; Gibson Health Hub / Gateway update; MHRAC bylaws discussion; APD CIU update; COAST update.
November 2021	11/16/21	ACS update; Gibson Health Hub / Gateway update; Annual Report update; Election of co-chairs process; APD CIU update; COAST update; Sub-committee updates.
December 2021	n/a	No meeting was held.
January 2022	1/18/21/21	SOP review process; AFR Dispatch update; ACS update; Gibson Health Hub update; MHRAC Agreement; APD reorganization; CIU Data Book; APD CIU update; subcommittee updates; comments on SOPs / Special Orders.

**Table 4.7.98b: MHRAC Subcommittee Meeting Dates and Topics**

Subcommittee	Issues discussed
<b><i>Policy, Information Sharing &amp; Resources</i></b>	Held meetings in August, September, October, and November 2021, and January 2022. As reflected in its Annual Report 2021, this subcommittee focused on providing feedback on the City’s encampment policy, updating the community resource card, <sup>120</sup> and discussing ECIT response rates, APD policy language, and updating MHRAC’s bylaws.
<b><i>Training</i></b>	Held meetings in August, September, and October 2021 and January 2022. The subcommittee discussed federal training classes that touch upon behavioral health issues and decided that MHRAC should review syllabi for such classes and provide feedback.

**Results**Primary: **In Compliance**Secondary: **In Compliance**Operational: **In Compliance****4.7.99 Assessing Compliance with Paragraph 112**

Paragraph 112 stipulates:

“The Advisory Committee shall include representation from APD command staff, crisis intervention certified responders, Crisis Intervention Unit (CIU), Crisis Outreach and Support Team (COAST), and City-contracted mental health professionals. APD shall also seek representation from the Department of Family and Community Services, the University of New Mexico Psychiatric Department, community mental health professionals, advocacy groups for consumers of mental health services (such as the National Alliance on Mental Illness and Disability Rights New Mexico), mental health service providers, homeless service providers, interested community members designated by the Forensic Intervention Consortium, and other similar groups.”

**Methodology**


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<sup>120</sup> The MHRAC/APD Resource card is accessible here: <https://www.cabq.gov/help/documents/abq-resource-card.pdf>

The monitoring team reviewed MHRAC's membership rosters (current as of January 2022), agendas, and meeting minutes (which include attendee names and affiliations) for monthly meetings that occurred during this reporting period. Members of the monitoring team attended all MHRAC meetings during this reporting period, which took place online via Zoom.

## Results

All specified groups named in this paragraph regularly participated in MHRAC meetings during this reporting period, and the minutes reflected discussions of agenda items designed to facilitate the goals of MHRAC.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.100 Assessing Compliance with Paragraph 113

Paragraph 113 stipulates:

**“The Advisory Committee shall provide guidance to assist the City in developing and expanding the number of crisis intervention certified responders, CIU, and COAST. The Advisory Committee shall also be responsible for considering new and current response strategies for dealing with chronically homeless individuals or individuals perceived to be or actually suffering from a mental illness, identifying training needs, and providing guidance on effective responses to a behavioral crisis event.”**

## Methodology

The monitoring team reviewed MHRAC's reports, recommendations, communications, and processes. In addition, we reviewed MHRAC monthly meeting agendas and minutes, MHRAC subcommittee meeting minutes, various email communications, and memos. Members of the monitoring team also attended all MHRAC meetings via Zoom during this reporting period.

## Results

MHRAC continued to offer guidance to the City and APD regarding developing and expanding the number of CIT-certified responders and response strategies for interacting effectively with unsheltered individuals and people with mental health challenges. In particular, during this reporting period, members of MHRAC continued to discuss the impacts of COVID-19 on people experiencing homelessness, identifying available resources for those individuals.

However, throughout this reporting period, MHRAC continued to struggle to clarify its role in advising the City in the development of a new Gateway Center at Gibson Health Hub homeless shelter and the Albuquerque Community Safety Department. While many of these conversations were thoughtful and clearly demonstrated care and concern for Albuquerque's most vulnerable populations, the conversations remained, at times, confusing. The monitoring team would like to see continued collaborative conversation anchored in principles of collaboration and problem-solving, to further clarify roles, responsibilities, and processes for MHRAC to be involved in the City's additional endeavors to respond to people in behavioral health crises. We remind the City that Paragraph 113 requires MHRAC to be responsible for "considering new and current response strategies for dealing with chronically homeless individuals or individuals perceived to be or actually suffering from a mental illness, identifying training needs, and providing guidance on effective responses to a behavioral crisis event," which it simply cannot do without clear communications and collaboration with all relevant City entities. Please see Paragraph 111 above for the monitoring team's additional observations.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.101 Assessing Compliance with Paragraph 114:**

Paragraph 114 stipulates:

**"APD, with guidance from the Advisory Committee, shall develop protocols that govern the release and exchange of information about individuals with known mental illness to facilitate necessary and appropriate communication while protecting their confidentiality."**

#### **Methodology**

The monitoring team reviewed each of MHRAC's reports, recommendations, communications, and processes during the reporting period, as well as a key APD memorandum, assessing these documents for compliance with Paragraph 114. We also reviewed the processes related to updating SOP 2-19 during this reporting period.

#### **Results**

The memorandum of understanding (MOU) between APD's CIU and the University of New Mexico Health Sciences Center/UNM Health Systems remains in place and has not been updated since the monitoring team's previous reviews (signed and dated October 16, 2017). The MOU is in effect until September 30, 2099, according to the City's Legal Department. The CIU continues to share information with UNM weekly, in accordance with the MOU.



During this reporting period, the APD worked on revisions to its SOP 2-19 *Response to Behavioral Health Issues* and added a new section entitled “Confidentiality, Communication, and Behavioral Health Emergencies,” which provides information about HIPAA and provides guidance related to communicating with UNM per the MOU. The additions to this policy were discussed at MHRAC’s September 2021 Information Sharing and Resources subcommittee meeting and sent out via email by APD CIU with an invitation for MHRAC’s feedback.

Further, the current draft updated version of SOP 2-19 also incorporates information from an APD memo (issued June 2, 2021, and signed by the Chief of Police), which aims to clarify the “transfer of custody” process for people who will be undergoing psychiatric evaluations under NM statute 43-1-10, and provides clear guidelines for officers regarding transfer between APD and the receiving hospital. The memo outlines three main provisions: (1) the removal of any officer restraints such as handcuffs if used; (2) completion of a written intake report, if applicable; and (3) a verbal report from the officer to the facility, explaining the need for the evaluation. Likewise, recent updates to SOP 2-19 incorporate another new protocol, which allows for the transportation to a mental health facility via ambulance, giving responding officers an option for transportation other than their APD squad cars. According to officers who the monitoring team spoke with during its fall 2021 site visit, these protocols are working well in the field.

Throughout this monitoring period, the monitoring team has also tracked the discussions about information sharing between the City/APD and Presbyterian Kaseman Hospital, which have been productive, including some discussion about the possibility of moving forward with an MOU guiding information sharing, similar to the one the City has in place with UMN.

We note that APD’s existing mental health training courses continue to contain content regarding the MOU between APD and the University of New Mexico. We also note that as ACS continues to take form, the monitoring team will assess changes to the MOU or protocols concerning sharing information collaboratively across stakeholders.

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **Not In Compliance**

***Recommendations for Paragraph 114:***

***4.7.101a: The City should pay particular attention to APD policies to ensure no voids develop in responsibilities for responses involving individuals experiencing mental health crises as currently outlined in the CASA.***

***4.7.101b: Monitor in-field results of finalized protocols and adjust as needed based on in-field activities and extant needs.***

**4.7.102 Assessing Compliance with Paragraph 115**

Paragraph 115 stipulates:

**“Within nine months of the Operational Date, APD shall provide the Advisory Committee with data collected by crisis intervention certified responders, CIU, and COAST pursuant to Paragraphs 129 and 137 of this Agreement for the sole purpose of facilitating program guidance. Also, within nine months of the Operational Date, the Advisory Committee shall review the behavioral health training curriculum; identify mental health resources that may be available to APD; network and build more relationships; and provide guidance on scenario-based training involving typical situations that occur when mental illness is a factor.**

## **Methodology**

The monitoring team reviewed data provided to MHRAC by APD relating to provisions of Paragraph 115, including data analyses in the form of PowerPoint slides and updated training curricula. We also reviewed MHRAC and subcommittee meeting agendas and minutes, as well as email communications among members of MHRAC, ACS, and APD.

## **Results**

APD continues to work to produce meaningful analyses of the data elements specified in paragraphs 129 and 137, to think analytically about what those data reveal about operational decisions (i.e., deployment, staffing, etc.), and to gather input from MHRAC. In January 2022, APD sent the Fall 2021 Data Book to members of MHRAC. We note that while the document was called “Fall 2021 Data Book,” the data analyzed in this databook comprises January 1, 2021 through June 30, 2021, dates within the prior reporting period. We remain concerned about APD’s capacity to analyze data and present it to MHRAC regularly and in a timely manner. Further, we note that APD’s Crisis Intervention Unit has requested an in-house data analyst, which has not yet been funded as of the writing of this report. However, the Data Division has three data analysts assisting with CIU data.

APD continues to provide all behavioral health training curricula (including updates and changes) to MHRAC for review when necessary. The feedback processes between MHRAC and APD have been strong, particularly since the introduction of MHRAC feedback map. The map assists in the flow of communication and timing of information, feedback, and reviews. During this period, no curricula were due for revision, therefore APD sent no curricula to MHRAC’s training subcommittee for review.

The MHRAC training subcommittee spent considerable time discussing the training provided to new ACS responders throughout this reporting period. For example, in September 2021 MHRAC training subcommittee reviewed the following training courses: slated for delivery to ACS personnel:

- ACS ICARE Staff Training, which addresses implicit bias, cultural competence, and neurobiology;
- ACS Trauma-Informed Care;
- APD's CIU ECIT Mobile Crisis Team operations;
- APD CIU Mental Health Law policies; and
- Revised mental health training for telecommunicators.

Further, MHRAC continues to identify mental health resources within the Albuquerque community and network with colleagues to build more relationships that may be useful to APD, CIU, MCT, ACS, and COAST as resources.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.103 Assessing Compliance with Paragraph 116**

Paragraph 116 stipulates:

**“The Advisory Committee shall seek to enhance coordination with local behavioral health systems, with the goal of connecting chronically homeless individuals and individuals experiencing mental health crisis with available services.”**

#### **Methodology**

The monitoring team reviewed data provided to MHRAC by APD relating to enhancing coordination within and among MHRAC's service base. This review included memos, emails, and MHRAC meeting and subcommittee meeting minutes.

#### **Results**

MHRAC continued its work to enhance the coordination of services for chronically homeless individuals and individuals experiencing mental health crises, which continues to be challenging during the COVID-19 Pandemic. Importantly, MHRAC continued to engage with members of the City's Family and Community Services Department, as it continued to develop the Gateway Center at Gibson Health Hub, a new shelter for people who are unsheltered.

Importantly, MHRAC's Policy, Information Sharing, and Resources subcommittee welcomed the participation of a member of the ACS leadership team, who began attending meetings regularly during this reporting period.

APD and MHRAC regularly provide updated cards<sup>121</sup> listing community resources to APD officers for them to provide to people with whom they interact while on patrol. CIU detectives, COAST members, and MCT members also regularly distribute the resource cards. The resource cards were updated at the end of the IMR-13 reporting period to reflect changes to resources due to the COVID-19 Pandemic. The most recent version is dated January 22, 2021, which is the version that City personnel distributed throughout this reporting period. The subcommittee plans to update the resource card in 2022.

The monitoring team's review shows continued interaction and cooperation between local behavioral health systems and the APD on these issues and tangible results in systems improvement recommendations, such as the City's transport order, which was implemented during this reporting period (see paragraph 114 for additional details). Further, during this reporting period, and because of the ease of accessibility of MHRAC meetings online via Zoom, many more community members have continued to attend MHRAC meetings.

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

#### **4.7.104 Assessing Compliance with Paragraph 117**

Paragraph 117 stipulates:

**“Within 12 months of the Operational Date, and annually thereafter, the Advisory Committee will provide a public report to APD that will be made available on APD’s website, which shall include recommendations for improvement, training priorities, changes in policies and procedures, and identifying available mental health resources.”**

#### **Methodology**

The monitoring team reviewed MHRAC's 2021 Annual Report, along with the annual reports from the MHRAC Training Subcommittee and the MHRAC Policy, Information Sharing, and Resources Subcommittee, all of which are available on MHRAC's page of the City's public website.<sup>122</sup>

#### **Results**

MHRAC's Annual Report consists of a letter from the outgoing co-chairs noting successes in quality training for officers, a policy change regarding transporting people in

<sup>121</sup> See “MHRAC/APD Resource Card” available at <https://www.cabq.gov/help/documents/abq-resource-card.pdf>

<sup>122</sup> See “Annual Reports,” Mental Health Response Advisory Committee Documents, City of Albuquerque. Accessible at: <https://www.cabq.gov/mental-health-response-advisory-committee/mental-health-response-advisory-committee-documents>

crisis, and the City's protocols regarding clearing encampments. MHRAC Training Subcommittee's Annual Report notes accomplishments in reviewing and consulting with CIU about officer training, and consulting with ACS about training for its responders. MHRAC Policy, Information Sharing, and Resources Subcommittee's Annual Report notes work on updates to the Resource card to address the COVID-19 pandemic, consultation with ACS, and reviews of relevant APD policies.

MHRAC continues to be a vital resource for the City; we look forward to its continued recommendations regarding the City's responses to people experiencing crisis and people who are unsheltered. We look forward to reviewing MHRAC's next annual report during the IMR-17 reporting period.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.105 Assessing Compliance with Paragraph 118 Behavioral Health Training**

Paragraph 118 stipulates:

**"APD has undertaken an aggressive program to provide behavioral health training to its officers. This Agreement is designed to support and leverage that commitment."**

No evaluation methodology was developed for paragraph 118, as it is not a "requirement" for APD or City action but simply states facts.

#### **4.7.106 Assessing Compliance with Paragraph 119 Behavioral Health Training for all Cadets**

Paragraph 119 stipulates:

**"APD agrees to continue providing state-mandated, basic behavioral health training to all cadets in the academy. APD also agrees to provide 40 hours of basic crisis intervention training for field officers to all academy graduates upon their completion of the field training program. APD is also providing 40 hours of basic crisis intervention training for field officers to all current officers, which APD agrees to complete by July 15, 2016."**

### **Methodology**

The monitoring team reviewed training records maintained by APD relating to basic behavioral health training, including pre-tests and post-tests of training participants and other documentation related to training activities.

### **Results**

The 40-hour CIT course was delivered to academy cadets during November 2021. APD continues to provide the 40-hour basic CIT training to all field officers, delivering the course during August 23-27, 2021, and November 1-5, 2021. The August class included a participant from neighboring law enforcement agencies, which sometimes leads to robust and thoughtful conversations about experiences within the region. Through a review of curricula, the monitoring team confirmed that the quality of 40-hour CIT training remains strong. CIT training uses hands-on, scenario-based learning, and its use of talented actors, specifically trained to lead scenarios, continues to enhance the learning experience for participating officers. During this reporting period, APD continued to utilize the services of actors to work through scenarios. APD also includes community participants as “guest lecturers” during certain segments of the 40-hour course, which also serves to enhance the learning experience for participating officers.

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

#### **4.7.107 Assessing Compliance with Paragraph 120**

Paragraph 120 stipulates:

**“The behavioral health and crisis intervention training provided to all officers will continue to address field assessment and identification, suicide intervention, crisis de-escalation, scenario-based exercises, and community mental health resources. APD training shall include interaction with individuals with a mental illness and coordination with advocacy groups that protect the rights of individuals with disabilities or those who are chronically homeless. Additionally, the behavioral health and crisis intervention training will provide clear guidance as to when an officer may detain an individual solely because of his or her crisis and refer them for further services when needed.”**

#### **Methodology**

The monitoring team reviewed APD’s training curricula relating to behavioral health and crisis intervention.

#### **Results**

APD continues to provide acceptable training that addresses field assessment and identification, suicide intervention, crisis de-escalation, community mental health participation, scenario-based exercises, and role-play exercises. All training emphasizes the importance of community partnerships and appropriate referrals to services. APD also continues to update their behavioral health curricula appropriately, for example, by

updating scenarios in which professional actors interact with training participants and by consulting with the community experts who comprise MHRAC.

During this reporting period, for example, APD revised the Basic Crisis Negotiation Team training. The monitoring team sent comments and feedback on the curriculum, which APD promptly and thoroughly addressed. The monitoring team also reviewed minor updates to the CIT 40-hour training course. We continue to find the level of quality of behavioral health training developed and delivered by APD to be strong.

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

#### **4.7.108 Assessing Compliance with Paragraph 121**

Paragraph 121 stipulates:

**“APD shall ensure that new tele-communicators receive 20 hours of behavioral health training. This training shall include: telephonic suicide intervention; crisis management and de-escalation; interactions with individuals with mental illness; descriptive information that should be gathered when tele-communicators suspect that a call involves someone with mental illness; the roles and functions of COAST, crisis intervention certified responders, and CIU; the types of calls that should be directed to particular officers or teams; and recording information in the dispatch database about calls in which mental illness may be a factor.”**

#### **Methodology**

The monitoring team reviewed APD’s training records relating to basic behavioral health training for telecommunicators and noted this training took place December 8-10, 2021. During this training, eleven APD telecommunicators participated, with all eleven successfully completing the training.

#### **Results**

APD updated this course during this reporting period with the proper opportunities for review and feedback. APD’s 20 hours of behavioral health training for telecommunicators includes all topics noted in paragraph 121 and includes role-play scenarios drawn from recent, actual 911 calls fielded by APD telecommunicator personnel. The course is well designed, with clearly articulated learning objectives and materials to achieve those objectives.

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

**4.7.109 Assessing Compliance with Paragraph 122**

Paragraph 122 stipulates:

**“APD shall provide two hours of in-service training to all existing officers and tele-communicators on behavioral health-related topics biannually.”**

**Methodology**

The monitoring team reviewed the curriculum and all relevant training documents related to attendance for officers and telecommunicators during this reporting period.

**Results**

Early in this reporting period (August 23, 2021) the chief issued a Special Order regarding required 2021 training (also known as maintenance of effort training or MOE), which included Crisis Intervention. The monitoring team reviewed and approved the updated curriculum for the 2021 MOE 2-hour course, which appropriately addressed behavioral health, mental health, and crisis intervention for the 2021 MOE during the last reporting period. The approved MOE course was delivered throughout the Fall of 2021 (September through November). Records from the end of this reporting period (January 2022) indicate that 97.5 percent of eligible officers had attended and completed the training. We also note that eligible telecommunicators also attended and completed this training course alongside participating officers.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

**4.7.110 Assessing Compliance with Paragraph 123: Crisis Intervention Certified Responders and Crisis Intervention Unit**

Paragraph 123 stipulates:

**“APD shall maintain a sufficient number of crisis intervention certified responders who are specially trained officers across the Department who retain their normal duties and responsibilities and also respond to calls involving those in mental health crisis. APD shall also maintain a Crisis Intervention Unit (“CIU”) composed of specially trained detectives housed at the Family Advocacy Center whose primary responsibilities are to respond to mental health crisis calls and maintain contact with mentally ill individuals who have posed a danger to themselves or others in the past or are likely to do so in the future. APD agrees to expand both the**



**number of crisis intervention certified responders and CIU.”**

## **Methodology**

The monitoring team reviewed training and assignment records for crisis intervention certified responder officers and the CIU for the reporting period. The monitoring team also reviewed response data for ECIT responders by month, an updated internal APD workload study, correspondence regarding the City/APD commissioning a staffing study to be conducted by an external entity, the CIU roster of detectives, and information on the officer shift bid that occurred in January 2022.

## **Results**

APD maintains a Crisis Intervention Unit staffed with detectives who regularly conduct follow-up visits to maintain contact with people with mental illness who come into frequent contact with police. The number of detectives in the CIU remains at twelve, meeting the recommended number of detectives noted in the “Albuquerque Police Department Comprehensive Staffing Assessment and Resources Study” conducted in 2015 by Alexander Weiss Consulting. We have advised APD that a seven-year-old management study cannot possibly be considered up to date and that new data need to be generated and assessed to determine staffing needs of field-based personnel. During the last reporting period, we understood that the City had issued a contract for an external entity to produce an updated and more focused staffing study; we now understand that a request for proposals has not yet been issued. We reviewed a memo from CIU outlining the required and desired elements of a staffing study focused on crisis response, which would indeed be helpful elements. We look forward to examining the results once the study is completed.

We note that over a year ago, APD developed a model to determine what “sufficient number” means to APD. APD’s CIU worked diligently on an ECIT workload analysis and staffing model “to ensure a sufficient number of Enhanced Crisis Intervention Team (ECIT) officers city-wide.” The model considers the number of behavioral health calls for service by shift and area command; the number of Field Services officers by shift and area command; the average length of a behavioral health call for service; the yearly shift bid; and the APD requirement for 70 percent minimum staffing (which considers vacation time, sick time, other circumstances that may affect staffing on any given day). That model was utilized during the January 2022 bid process.

However, as we noted in our prior monitoring report (IMR-14), DOJ was unable to have its data consultant assess the data comprehensively to assist APD in determining whether 40 percent is sufficient (see Paragraph 124), due to a lack of access to data. APD has since created a Data Division to rectify this issue.

During this reporting period, APD data indicated that, on average, ECIT-trained officers respond to about 75 percent of calls for service involving behavioral health elements.

The percentage of ECIT responses to these calls for service varied across shifts and area commands during this reporting period.

The CIU noted consistent improvement in response rates of ECIT officers responding to mental health-related calls for service, growing from 65 percent on average during the last reporting period to 75 percent during this reporting period.

In addition to the 12 detectives in CIU, there are an additional four officers assigned to the Mobile Crisis Team (MCT) since the summer of 2020. We are advised by APD that detailed staffing recommendations are a work in progress which will probably be outsourced to an outside consultant.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

***Recommendation for Paragraph 123:***

***4.7.110a: APD should implement the data-driven, methodologically appropriate workload, staffing planning, and analysis protocol developed by CIU that ensures that reliable “staffing levels” for ECIT officers are regularly calculated, reported, set as staffing goals, and attained or hire an external vendor who is a data scientist to conduct a similar analysis and implement that staffing plan.***

**4.7.111 Assessing Compliance with Paragraph 124**

Paragraph 124 stipulates:

**“The number of crisis intervention certified responders will be driven by the demand for crisis intervention services, with an initial goal of 40% of Field Services officers who volunteer to take on specialized crisis intervention duties in the field. Within one year of the Operational Date, APD shall reassess the number of crisis intervention certified responders, following the staffing assessment and resource study required by Paragraph 204 of this Agreement.”**

**Methodology**

The monitoring team reviewed training records for the ECIT officers, who meet the definition of “field services officers who volunteer to take on specialized crisis intervention duties in the field,” along with the ECIT workload analysis and staffing model (see Paragraph 123). APD’s records indicate that about 53.7 percent of Field Services officers are ECIT trained. Those officers responded to about 75 percent of calls for service that have a behavioral health component during this reporting period.

**Results**

The current staffing levels of crisis intervention “certified responders” consistently met the 40 percent goal during this reporting period, varying between 48 and 57 percent. However, the numbers were slightly lower than the last reporting period, IMR-13. Table 4.7.111 below notes the percentages by month. The reader is referred to the above comments related to paragraph 123 for further information about APD CIU’s reassessment of the number of ECIT-certified responders and their assessment of compliance with the 40 percent requirement. The CIU held both Enhanced CIT courses (January 12 and January 24) and ECIT Refresher (September 27, October 27, November 16, and December 13) courses during this reporting period.

We note that some of the *amici* contend that, based on current experience, the 40 percent goal is not sufficient to ensure that critical program goals are met. The monitor agrees and suggests that APD re-evaluate that goal, based on a review of the number and severity of negative outcomes per quarter of crisis intervention events handled by non-CIT trained officers. We continue to see fatal and non-fatal outcomes in cases that had mental health components but were not handled by ECIT officers. As we noted above in paragraph 123, the CIU has begun to think through variables to help determine whether the 40 percent goal is appropriate. We look forward to reviewing continued conversations among stakeholders on this topic in future reporting periods. We also look forward to reviewing the results of an updated staffing study conducted by a data scientist focused on this issue when it is completed.

**Table 4.7.111 Staffing Level of Enhanced CIT- Certified Responders**

Percentage of APD Officers who are Enhanced CIT Certified Responders	
August 2021	48.2%
September 2021	53.7%
October 2021	54.3%
November 2021	54.7%
December 2021	57.8%
January 2022	58.4%

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

#### Monitor’s Note

We note that APD averaged more than fifty percent crisis response rates by ECIT-trained officers in four of the six months of the 15<sup>th</sup> reporting period, which exceeds the requirements for this paragraph.

#### 4.7.112 Assessing Compliance with Paragraph 125

Paragraph 125 stipulates:

**“During basic crisis intervention training for field officers provided to new and current officers, training facilitators shall recommend officers with apparent or demonstrated skills and abilities in crisis de-escalation and interacting with individuals with mental illness to serve as crisis intervention certified responders.”**

### **Methodology**

The monitoring team reviewed recommendations obtained and assessed by training facilitators during this reporting period, which are in the form of email communications.

### **Results**

The APD CIU instructors routinely identify and recommend field officers who are well suited for the Enhanced CIT (ECIT) course, encouraging them to sign up for the next ECIT course scheduled. Members of the CIU routinely reach out to those officers via email and recommend that they enroll in upcoming ECIT courses.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.113 Assessing Compliance with Paragraph 126**

Paragraph 126 stipulates:

**“Within 18 months of the Operational Date, APD shall require crisis intervention certified responders and CIU to undergo at least eight hours of in-service crisis intervention training biannually.”**

### **Methodology**

The monitoring team reviewed training records for CIU and field services personnel, including certificates of completion.

### **Results**

APD provided 8-hours of “re-certification” training to its certified CIT responders via ECIT refresher training during this reporting period in September, October, and December 2021, and January 2022. The curriculum addressed crucial issues such as changes to mental health laws in New Mexico, substance use disorders, barricaded individuals, autism spectrum disorder, and mobile crisis teams.

Primary: **In Compliance**

Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.114 Assessing Compliance with Paragraph 127**

Paragraph 127 stipulates:

**“Within 18 months of the Operational Date, APD will ensure that there is sufficient coverage of crisis intervention certified responders to maximize the availability of specialized responses to incidents and calls for service involving individuals in mental health crisis; and warrant service, tactical deployments, and welfare checks involving individuals with known mental illness.”**

#### **Methodology**

The monitoring team reviewed response data for ECIT responders by month, an updated internal APD workload study, and correspondence regarding the City/APD commissioning a staffing study to be conducted by an external entity.

#### **Results**

As we note in paragraphs 123 and 124 above, during this reporting period, the APD CIU and other stakeholders continued to analyze data designed to determine whether the initial goal of 40 percent is “sufficient coverage” for Albuquerque. Our recommendation that APD “re-assess its 40 percent guideline for CIU-trained officers (in light of recent incidents involving individuals in mental health crises) and determine if the 40 percent staffing level continues to meet community needs” remains. While APD conducted some research into staffing levels in other jurisdictions and examined some best practices, we reiterate our recommendation for APD to conduct meaningful analysis on this issue by employing the expertise of a data scientist.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### ***Recommendation for Paragraph 127:***

***4.7.114a: APD should re-assess its 40 percent guideline for CIU-trained officers, in light of recent incidents involving individuals in mental health crises and determine if the 40 percent staffing level continues to meet community and department needs.***

#### **4.7.115 Assessing Compliance with Paragraph 128**

Paragraph 128 stipulates:

**“APD will ensure that crisis intervention certified responders or CIU will take the lead, once on scene and when appropriate, in interacting with individuals in crisis. If a supervisor has assumed responsibility for the scene, the supervisor will seek input of the crisis intervention certified responder or CIU on strategies for resolving the crisis when it is practical to do so.”**

## **Methodology**

The monitoring team reviewed documentation of APD’s reviews of field interactions between officers and people in crisis, which APD launched in response to our recommendations on this paragraph in IMR-12.<sup>123</sup> These reviews are designed to understand officers’ interactions with people in crisis on scene, including which responding officers are certified (ECIT) crisis responders, and whether those officers take the lead on scene, for example. APD CIU personnel conducting these reviews fill out a standard review form to capture such information and take appropriate action to refer potential policy violations to the proper accountability channels.

## **Results**

APD CIU has continued to address our recommendation to conduct assessments of a random sample of crisis intervention responses throughout the Field Services Bureau. In all, 43 thorough reviews were conducted by APD during this reporting period, with the reviewers drawing upon OBRD video, incident reports, and CIT reports.

The monitoring team appreciates this ongoing review focused on a sampling of field services officers’ interactions with people with mental illness and people in crisis. We look forward to APD’s continued reviews as they address our Recommendation 4.7.115b from IMR-12, which calls for a review of randomly selected mental health-related calls for service city-wide. In our last report, we encouraged the City to consider (a) the sustainability of this review process (i.e., should it continue, its processes should be formally memorialized in an SOP) and (b) where this type of review process fits into the City’s and the APD’s existing oversight and accountability mechanisms. In response, APD has included this process in a draft of SOP 1-37 *Crisis Intervention Division and Program*, which is under development. We look forward to reviewing the CIU’s progress on random reviews and the updated version of SOP 1-37 in the next reporting period.

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **Not In Compliance**

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<sup>123</sup>IMR-12, Recommendation 4.7.115a: Conduct a complete assessment of all CIT/CIU responses involving the officer identified in the events outlined above. IMR-12, Recommendation 4.7.115b: Conduct a random sample of all CIT/CIU responses to ensure that the issues identified above have not been replicated in other CIT/CIU responses by other officers. IMR-12, Recommendation 4.7.115c: Provide the monitor the results of the inquiry outlined above for inclusion in IMR-13.

**Recommendation for Paragraph 128:**

**4.7.115b: Ensure the sustainability of the process of conducting a random sample of all CIT/CIU responses to ensure that the issues identified above have not been replicated in other CIT/CIU responses involving other officers and memorialize these processes in writing.**

**4.7.116 – 4.7.124 Assessing Compliance with Paragraphs 129-137**

Monitoring team members reviewed (via reports) APD's current activities related to policing services to individuals with mental illness and individuals in behavioral crises (paragraphs 129 through 137). Our observations indicate that, overall, the behavioral health paragraphs of the CASA have received careful and meaningful attention during the reporting period.

The data and processes we reviewed indicate that APD's outreach and support efforts to those in the communities served by CIT processes are effective and problem-oriented. Still, we reiterate that we will be carefully observing how the ACS factors into these efforts, now that it has launched its field response mission. We will also be tracking any changes to COAST staffing levels. CIU Training remains a strong point of this effort. APD's capacity to conduct meaningful analysis of the data they collect, however, remains in question.

**4.7.116 Assessing Compliance with Paragraph 129**

Paragraph 129 stipulates:

**“APD shall collect data on the use of crisis intervention certified responders and CIU. This data will be collected for management purposes only and shall not include personal identifying information of subjects or complainants. APD shall collect the following data:**

- a) date, shift, and area command of the incident;**
- b) subject's age, race/ethnicity, and gender;**
- c) whether the subject was armed and the type of weapon;**
- d) whether the subject claims to be a U.S. military veteran;**
- e) name and badge number of crisis intervention certified responder or CIU detective on the scene;**
- f) whether a supervisor responded to the scene;**
- g) techniques or equipment used;**
- h) any injuries to officers, subjects, or others;**
- i) disposition of the encounter (e.g., arrest, citation, referral); and**
- j) a brief narrative of the event (if not included in any other document).”**

**Methodology**

The monitoring team reviewed the APD's "Fall 2021 CIU Data Book" to determine whether APD is collecting all the required elements of this paragraph.

## **Results**

Our review of the most recent CIU Data Book ("Fall 2021," which analyzes data from January through June 2021) indicates that APD continued to collect appropriate data on all required elements of this paragraph.

The monitoring team, however, remains concerned about the management and analyses of these data so that APD can use them for "management purposes" as this paragraph requires. We understand that analyzing data is a complex task for any police department, but especially difficult for APD, given its struggle with this paragraph in recent years. If the APD/CIU cannot develop robust data analysis capacity, an external agent may be necessary to facilitate the needed data analysis processes.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### ***Recommendation for Paragraph 129:***

***4.7.116a: Staff and properly supervise appropriately trained personnel to provide accurate and complete data to meet the requirements of this paragraph.***

### **4.7.117 Assessing Compliance with Paragraph 130**

Paragraph 130 stipulates:

**"APD will utilize incident information from actual encounters to develop case studies and teaching scenarios for roll-call, behavioral health, and crisis intervention training; to recognize and highlight successful individual officer performance; to develop new response strategies for repeat calls for service; to identify training needs for in-service behavioral health or crisis intervention training; to make behavioral health or crisis intervention training curriculum changes; and to identify systemic issues that impede APD's ability to provide an appropriate response to an incident involving an individual experiencing a mental health crisis."**

## **Methodology**



The monitoring team reviewed CIU training curricula, commendations issued, and the City's work to "develop new response strategies for repeat calls for service" in the form of the Albuquerque Community Safety Department (ACS).<sup>124</sup>

## Results

APD's behavioral health units continue to innovate and address the requirements of this paragraph, including utilizing actual, recent encounters to inform training. APD has analyzed the most recent data available during this reporting period. This analysis is critically important to the agency's decision-making. It is used to "develop new response strategies for repeat calls for service" and to "identify systemic issues that impede APD's ability to provide an appropriate response."

Importantly, the City's new response strategy, ACS, was launched during this reporting period. A video overview of ACS for officers was distributed via PowerDMS during this reporting period so that officers understand the ACS role within the City's network of public safety resources. We continue to track ACS's development and evolution, particularly with respect to how it coordinates and collaborates with facets of APD including the CIU and COAST.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.118 Assessing Compliance with Paragraph 131

Paragraph 131 stipulates:

**"Working in collaboration with the Advisory Committee, the City shall develop and implement a protocol that addresses situations involving barricaded, suicidal subjects who are not posing an imminent risk of harm to anyone except themselves. The protocol will have the goal of protecting the safety of officers and suicidal subjects while providing suicidal subjects with access to mental health services."**

## Methodology

The monitoring team reviewed the most recent draft of SOP 2-20 *Hostage Situations, Barricaded Individuals, and Tactical Threat Assessments*, which is overdue for update and training (APD's online SOP Manual indicates that the most recent version of this policy was effective August 5, 2019 and was due for Review August 5, 2020).

## Results

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<sup>124</sup> See City of Albuquerque, Albuquerque Community Safety, accessible at: <https://www.cabq.gov/acs>

As it was in the prior two reporting periods, this policy is still overdue for review, update, publication, and training. During the last reporting period, SOP 2-20 Hostage Situations, Barricaded Individuals, and Tactical Threat Assessments was revised. It is still in the APD's internal review process, as the CIU endeavors to align all crisis intervention-related policies on the same review cycle.

As in the last few reporting periods, the monitoring team saw some positive signs of increased collaboration across the department, especially between CNT and CIU, including collaborative work on the training curriculum for the revised SOP 2-20 which was co-written by members of CIU and members of CNT. This team also drafted a script for an internally produced training video (regarding barricaded, suicidal individuals) as a learning tool for officers. MHRAC's training subcommittee reviewed the script for the training video.

Since the policy revision was not finalized in this reporting period, no training regarding the updated policy occurred. We note that APD still struggles to update policies regularly, which means APD loses the ability to "learn" from others in the field, to adapt and adopt new "best practices," and to peer-test current APD response modalities.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

***Recommendations for Paragraph 131:***

***4.7.118a: APD command staff should review existing cooperative approaches between CIU, CNT, and SOD relative to current issues and practice.***

***4.7.118b: APD executive leadership should pay particular attention to the results of the implementation of cooperative approaches between CIU, CNT, and SOD. This project should be goal-driven, should include the production of specifically articulated tangible objectives and measurable timelines to ensure progress is made.***

**4.7.119 Assessing Compliance with Paragraph 132 Crisis Prevention**

Paragraph 132 stipulates:

**"APD shall continue to utilize COAST and CIU to follow up with chronically homeless individuals and individuals with a known mental illness who have a history of law enforcement encounters and to proactively work to connect these individuals with mental health service providers."**

## Methodology

The monitoring team reviewed monthly program documentation for COAST members, CIU detectives, and CIU clinicians which detail caseloads and activities. We also conducted interviews with COAST members and CIU detectives during our November 2021 in-person site visit.

## Results

APD's COAST and CIU routinely follow up with members of the community who would benefit from connections with mental health service providers.

During this reporting period, COAST members continued to use creativity and solid problem-solving approaches to address persistent issues, such as helping community members connect to government services and navigating complex systems. Due to retirements and resignations, there were only two COAST members throughout much of this monitoring period; those two COAST members provide services to community members in all six area commands, which is the entirety of the City. This staffing level is down from five COAST members at the height of the program. Toward the end of this monitoring period, a third COAST member was hired and began training. We understand that Albuquerque ACS continues to evolve; we will track the evolution of that agency with an eye toward opportunities for collaboration, cooperation, and avoiding duplication.

During this reporting period, CIU detectives and COAST members conducted hundreds of follow-up in-person home visits, contacted people via email and phone, and spent many hours at community meetings to effectively connect people with a wide variety of assistance, including food and housing. It is noteworthy that COAST sought and won a grant for \$50,000 during this reporting period. The funding is to provide additional services in the form of hotel vouchers, medication assistance, clothing, minor auto repairs, burial assistance, and bus tickets. We applaud COAST for these need-based efforts.

COAST and CIU continue to function as a referral and assistance mechanism for those in the community confronted with persistent mental health issues. APD must be attentive to staffing in these critical areas. It is incumbent on the City to develop a services matrix that ensures adequate services for the chronically homeless, considering the missions of APD, COAST, and ACS and the opportunities for collaboration. We understand that ACS is still in early stages of responding to calls for service and we also acknowledge the cooperative working relationship that has developed between ACS and APD.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.120 Assessing Compliance with Paragraph 133**

Paragraph 133 stipulates:

**“COAST and CIU shall provide crisis prevention services and disposition and treatment options to chronically homeless individuals and individuals with a known mental illness who are at risk of experiencing a mental health crisis and assist with follow-up calls or visits.”**

#### **Methodology**

The monitoring team reviewed program documentation by month for COAST members, CIU detectives, and CIU clinicians which detail caseloads and activities. We also conducted interviews with COAST members and CIU detectives during our November 2021 in-person site visit.

#### **Results**

The work done during this reporting period by COAST and the CIU was compassionate and productive. We also reiterate our note above in Paragraph 132 that COAST won a \$50,000 grant to enable team members to continue to provide food, clothing, emergency hotel rooms, and travel funds for people in crisis or facing eviction or other events that may precipitate a crisis.

However, we caution APD to be cognizant of issues with staffing, as even the best of systems will eventually fail in the face of continual under-staffing. Since COAST is now a team of three members (with the third member joining at the end of this monitoring period), we are concerned about the ability of this vital function to serve all six area commands. We reiterate our position in paragraph 132: It is incumbent on APD and the City to demonstrate that the new ACS Department is a mechanism that can deliver needed services to Albuquerque’s chronically homeless and individuals experiencing mental health crises. Again, we appreciate the cooperation we have seen between ACS and APD thus far and we note that ACS has learned from COAST, its functions, its experience, and its connections to community as the ACS responders begin their field work.

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

#### **4.7.121 Assessing Compliance with Paragraph 134**

Paragraph 134 stipulates:

**“APD shall continue to utilize protocols for when officers should make referrals to and coordinate with**

**COAST and CIU to provide prevention services and disposition and treatment options.”**

## **Methodology**

The monitoring team reviewed SOP 2-19 *Response to Behavioral Health Issues*, CIT worksheets, and program documentation by month for COAST members and CIU detectives.

## **Results**

During this reporting period, CIU continued to reinforce to officers in the Field Services Bureau the importance of completing the required CIT worksheets to make referrals to the CIU and COAST for follow-up. To that end, CIU command staff continued visiting all watches in each of the six area commands to provide updates about CIU in general – the availability of upcoming training, for example – but also to stress the importance of referral protocols and the work of the CIU detectives and COAST. These visits from CIU to area commands began in the last reporting period and have been helpful according to interviews with APD field personnel and CIU staff.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.122 Assessing Compliance with Paragraph 135**

Paragraph 135 stipulates:

**“APD shall maintain a sufficient number of trained and qualified mental health professionals in COAST and full-time detectives in CIU to satisfy its obligations under this Agreement. Within three months of completing the staffing assessment and resource study required by Paragraph 204 of this Agreement, APD shall develop a recruitment, selection, and training plan to assign, within 24 months of the study, 12 full-time detectives to the CIU, or the target number of detectives identified by the study, whichever is less.”**

## **Methodology**

The monitoring team reviewed CIU rosters as well as relevant programmatic records related to current caseloads.

## **Results**

As we note above in paragraphs 132 and 133, the number of COAST specialists increased by one in this reporting period (an additional COAST member was hired in January 2022 after the City posted the position between September and October 2021),

for a total of three COAST specialists to serve the entirety of the City. The monitoring team questions whether three COAST members constitute “a sufficient number,” as this paragraph requires. We note that for many years during the CASA process, COAST maintained five members, but in recent years that number has dropped. A forty-percent reduction in COAST staffing is significant.

The CIU maintained 12 detectives and increased to four supervisors (one commander, one lieutenant, and two sergeants). The monitoring team is heartened to see a commander overseeing this important unit, after many years without one.

As we have noted, the City’s reliance upon a seven-year-old staffing study is insufficient to understand the needs of Albuquerque. We note that the CIU has requested an independent contractor to conduct an updated staffing study focused specifically on CIU detectives, MCTs, and COAST. Without the use of a data-driven, methodologically appropriate workload and staffing, planning, and analysis to ensure expansion (or contraction) of CIU staffing based on workload and other factors, the CIU is operating without proper information. We encourage the City to ensure reliable staffing levels for mental health professionals in COAST and in the MCTs are attained. At this point, the data exist to support this analysis, and such an analysis is something that the City and APD should consider carefully and update regularly.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

***Recommendations for Paragraph 135:***

***4.7.122a: Ensure that COAST and the MCTs are adequately staffed to handle the needs of the APD and the Albuquerque community.***

***4.7.122b: Alternatively, provide data which are accurate and assessable to indicate that the responsibilities established in the CASA related to Paragraph 135 are routinely and competently handled in an alternative method.***

**4.7.123 Assessing Compliance with Paragraph 136**

Paragraph 136 stipulates:

**“COAST and CIU shall continue to look for opportunities to coordinate in developing initiatives to improve outreach, service delivery, crisis prevention, and referrals to community health resources.”**

**Methodology**

The monitoring team reviewed programmatic reporting for COAST and CIU, MHRAC meeting agendas and minutes (which COAST and CIU regularly attend), and MHRAC’s resource card, which they are in the process of updating.

## Results

COAST and CIU have developed and continue to develop robust relationships with a wide variety of service providers throughout the City, including local hospitals, and interact with them regularly to discuss new ideas and solutions. In fact, APD CIU members have been active in recruiting new members of MHRAC and encouraging new partners to attend MHRAC meetings, which serve as exercises in problem-solving, brainstorming, and coordinating local services. COAST and CIU members continued to engage in creative problem-solving during this reporting period, especially regarding the ongoing COVID-19 pandemic. As we mentioned in paragraph 116, APD and MHRAC regularly provided APD officers cards listing community resources for them to provide to people with whom they interact while on patrol. CIU detectives, COAST members, and MCT members also regularly distribute the resource cards. The resource cards were updated at the end of the IMR-13 reporting period to reflect changes to resources due to the COVID-19 Pandemic. The most recent version is dated January 22, 2021, which is the version that City personnel distributed throughout this reporting period. The subcommittee plans to update the resource card in 2022.

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

### 4.7.124 Assessing Compliance with Paragraph 137

Paragraph 137 stipulates:

**“APD shall collect and analyze data to demonstrate the impact of and inform modifications to crisis prevention services. This data will be collected for management purposes only and shall not include personal identifying information of subjects or complainants. APD shall collect the following data:**

- a) number of individuals in the COAST and CIU caseloads;**
- b) number of individuals receiving crisis prevention services;**
- c) date, shift, and area command of incidents or follow up encounters;**
- d) subject’s age, race/ethnicity, and gender;**
- e) whether the subject claims to be a U.S. military veteran;**
- f) techniques or equipment used;**
- g) any injuries to officers, subjects, or others;**
- h) disposition of the encounter (e.g., arrest, citation, referral); and**
- i) a brief narrative of the event (if not included in any other document).”**

## Methodology

The monitoring team reviewed the APD's "Fall 2021 CIU Data Book" to determine whether APD is collecting and analyzing all the required elements of this paragraph.

## Results

The monitoring team remains concerned about the collection, management, and analyses of these data, and APD's capacity to use them for "management purposes" to "demonstrate the impact of and inform modifications to crisis prevention services," as this paragraph requires.

We understand that analyzing data well is a complex task for any police department, but especially difficult for APD, given its struggle with this paragraph in recent years. It is our understanding that these data may be analyzed by APD's new Data Analytics Unit moving forward. If the APD/CIU cannot develop robust data analysis capacity, an external agent may be necessary to facilitate the needed data analysis processes.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### ***Recommendations for Paragraph 137:***

***4.7.124a: Identify data necessary to fulfill requirements of Paragraph 137.***

***4.7.124b: Write specifications for selecting an outside contractor (or internal employee) to identify knowledge, skills and abilities required to analyze the requirements of Paragraph 137.***

***4.7.124c: Explore innovative methods for the oversight and development of information stipulated in Paragraph 137.***

**4.7.125 Assessing Compliance with Paragraph 139<sup>125</sup>**

Paragraph 139 stipulates that:

**"APD shall review, develop, and implement policies and procedures that fully implement the terms of this Agreement, comply with applicable law, and comport with best practices. APD policies and procedures shall use terms that are defined clearly, shall be written plainly, and shall be organized logically."**

## Results

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<sup>125</sup> Paragraph 138 is judged to be prefatory to the following section on training, and as such established goals, but not quantifiable objectives. These are dealt with in paragraphs 139-148.



APD and the City routinely submit new policies and suggested revisions to existing policies to the monitoring team (and DOJ) for review and comment. We continue to find APD's responses to concerns voiced during these policy reviews to be meaningful and effective.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.126 Assessing Compliance with Paragraph 140**

Paragraph 140 stipulates:

**“APD policies and procedures shall be indexed and maintained in an organized manner using a uniform numbering system for ease of reference. APD policies and procedures shall be accessible to all APD officers and civilian employees at all times in hard copy or electronic format.”**

#### **Results**

APD continues to conform to accepted practice agreed to by the Parties and the Monitor relating to policy development, archiving, and oversight.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.127 Assessing Compliance with Paragraph 141**

Paragraph 141 stipulates:

**“Within three months of the Operational Date, APD shall provide officers from varying ranks and units with a meaningful opportunity to review and comment on new or existing policies and procedures.”**

#### **Results**

APD continues to conform to accepted practice agreed to by the Parties and the Monitor relating to policy development, review by officers, and training.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.128 Assessing Compliance with Paragraph 142**

Paragraph 142 stipulates:

**“Within three months of the Operational Date, APD shall ensure that the Policy and Procedures Review Board is functional and its members are notified of the Board’s duties and responsibilities. The Policy and Procedures Review Board shall include a representative of the Technology Services Division in addition to members currently required under Administrative Order 3-65-2 (2014).”**

## **Results**

APD continues to conform to accepted practice agreed to by the Parties and the Monitor relating to the Policy Review Board.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.129 Assessing Compliance with Paragraph 143**

Paragraph 143 stipulates:

**“Within nine months of the Operational Date, the Policy and Procedures Review Board shall review, develop, and revise policies and procedures that are necessary to implement this Agreement. The Policy and Procedures Review Board shall submit its formal recommendations to the Chief through the Planning and Policy Division.”**

## **Results**

The APD continues to conform to accepted practice agreed to by the Parties and the Monitor relating to the Policy Review Board.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.130 Assessing Compliance with Paragraph 144**

Paragraph 144 stipulates:

**“Unless otherwise noted, all new and revised policies and procedures that are necessary to implement this Agreement shall be approved and issued within one year of the Operational Date. APD shall continue to post approved policies, procedures, and administrative orders on the City website to ensure public**

**accessibility. There shall be reasonable exceptions for policies, procedures, and administrative orders that are law enforcement sensitive, such as procedures on undercover officers or operations.”**

## **Results**

APD continues to conform to accepted practice agreed to by the Parties and the Monitor relating to the policy documentation and access procedures.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.131 Assessing Compliance with Paragraph 145**

Paragraph 145 stipulates:

**“The Policy and Procedures Review Board shall review each policy or procedure six months after it is implemented and annually thereafter, to ensure that the policy or procedure provides effective direction to APD personnel and remains consistent with this Agreement, best practices, and current law. The Policy and Procedures Review Board shall review and revise policies and procedures as necessary upon notice of a significant policy deficiency during audits or reviews.”**

## **Results**

Policies are routinely reviewed and updated as a normal course of business at APD.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.132 Assessing Compliance with Paragraph 146**

Paragraph 146 stipulates:

**“APD shall apply policies uniformly and hold officers accountable for complying with APD policy and procedure.**

## **Results**

The monitor has conducted a reasonably detailed review of APD’s disciplinary processes (see Paragraphs 201 and 202, below). The results of that review indicate that only 63 percent of the completed cases reviewed comply with the tenets of progressive discipline, as outlined in APD policy.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

***4.7.132a: Recommendation for Paragraph 146: APD should conduct an internal analysis of its disciplinary processes and outcomes and produce a document that provides findings on consistency, fairness, and the impact of discipline on officers' later behavior.***

#### **4.7.133 Assessing Compliance with Paragraph 147**

Paragraph 147 stipulates:

**“APD shall submit all policies, procedures, manuals, and other administrative orders or directives related to this Agreement to the Monitor and DOJ for review and comment before publication and implementation. If the Monitor or DOJ objects to the proposed new or revised policy, procedure, manual, or other administrative order or directive, because it does not incorporate the requirements of this Agreement or is inconsistent with this Agreement or the law, the Monitor or DOJ shall note this objection in writing to all parties within 15 business days of the receipt of the policy, procedure, manual, or directive from APD. If neither the Monitor nor DOJ objects to the new or revised policy, procedure, manual, or directive, APD agrees to implement it within one month of it being provided to DOJ and the Monitor.”**

#### **Methodology**

Members of the monitoring team continue to routinely review policies, procedures, administrative orders, and special orders for compliance with this paragraph. APD's practice regarding special orders (temporary instructive mechanisms designed to revise workflow, review, and or decision-making processes at APD) are now routinely routed through the monitoring team for review and comment.

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.134 Assessing Compliance with Paragraph 148**

Paragraph 148 stipulates:

**“APD shall have 15 days to resolve any objections to new or revised policies, procedures, manuals, or**

directives implementing the specified provisions. If, after this 15-day period has run, the DOJ maintains its objection, then the Monitor shall have an additional 15 days to resolve the objection. If either party disagrees with the Monitor's resolution of the objection, either party may ask the Court to resolve the matter. The Monitor shall determine whether in some instances an additional amount of time is necessary to ensure full and proper review of policies. Factors to consider in making this determination include: 1) complexity of the policy; 2) extent of disagreement regarding the policy; 3) number of policies provided simultaneously; and 4) extraordinary circumstances delaying review by DOJ or the Monitor. In determining whether these factors warrant additional time for review, the Monitor shall fully consider the importance of prompt implementation of policies and shall allow additional time for policy review only where it is clear that additional time is necessary to ensure a full and proper review. Any extension to the above timelines by the Monitor shall also toll APD's deadline for policy completion."

## **Methodology**

The provisions of this paragraph seldom need to be invoked. The Parties and the APOA have tended to be mutually supportive in getting policies moved through the approval process.

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.135 Assessing Compliance with Paragraphs 149**

Paragraph 149 stipulates:

**"Within two months of the Operational Date, APD shall ensure that all officers are briefed and presented the terms of the Agreement, together with the goals and implementation process of the Agreement."**

## **Methodology**

Paragraph 149 identifies CASA requirements for action by APD early on in the compliance process. This paragraph references the briefing of all officers on the requirements of the CASA, as well as the briefing and training of officers relating to their compliance methodology.

The monitoring team requested and received records for all new APD employees to ensure that they were briefed and presented the terms of the CASA. The monitoring team reviewed documentation to ensure all personnel signed off in acknowledgment that the material was reviewed and received.

Records reviewed by the monitoring team show that personnel were briefed and presented the Agreement terms, and all completed the review/signature for this reporting period. The City remains in compliance with this paragraph based on earlier performance.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.136 Assessing Compliance with Paragraph 150

Paragraph 150 stipulates:

**“Within three months of issuing a policy or procedure pursuant to this Agreement, APD agrees to ensure that all relevant APD personnel have received and read their responsibilities pursuant to the policy or procedure, including the requirement that each officer or employee report violations of policy; that supervisors of all ranks shall be held accountable for identifying and responding to policy or procedure violations by personnel under their command; and that personnel will be held accountable for policy and procedure violations. APD agrees to document that each relevant APD officer or other employee has received and read the policy. Training beyond roll-call or similar training will be necessary for many new policies to ensure officers understand and can perform their duties pursuant to the policy.”**

## Methodology

As reported in the last reporting period, APD suffered a major setback in their compliance processes for the IMR-14 period. After requesting APD’s training calendars for this reporting period, the monitoring team received and reviewed required training documentation. This latest submission from APD reflected a vast improvement over previous reporting periods.

APD completed training its personnel on 2019 Use of Force Tier 1 and documented its results for this reporting period:

- Number of currently sworn APD 917
- Leave 6

- Active Sworn who can complete training 911
- Completed training in 2021 69
- Completed on PDMS 867
- Numbers that received hard copies in an academy 44
- Total number completed as of 12/28/2021 911
- Percentage active completed 100 percent

APD completed training its personnel on 2019 Use of Force Tier 2 and documented its results for this reporting period:

- Number of currently sworn APD 914
- Leave 7
- Active Sworn that can complete training 907
- Total number of sworn completed as of 12/30/21 907
- Completed training in 2021 70
- Percentage active completed 100 percent

APD completed training its personnel on 2019 Use of Force Tier 3 and documented its results for this reporting period:

- Currently sworn Supervisors APD and Acting 321
- Leave 4
- Active Sworn who can complete training 317
- Completed training in 2021 66
- Total number completed as of 12/30/2021 316
- Percentage active completed. 99.68 percent

APD completed training its personnel on 2021 UoF Tier 4 MARC and documented its results for this reporting period:

- Number of currently sworn 914
- Leave 68
- Active sworn that can complete training 846
- Active sworn that still need to attend 14
- Completed training as of 12/30/21 832
- Percentage active completed 98.35 percent

APD completed training its personnel on 2021 Use of Force Tier 4 RBT training and documented its results for this reporting period:

- Number of currently sworn 914
- Leave 89
- Active sworn that can complete training 825
- Active sworn that still need to attend 3
- Completed training as of 12/30/21 822
- Percentage active completed 99.64 percent

APD completed training its personnel on 2021 UoF Tier 4 High Risk Stops training and documented its results for this reporting period:

- |   |               |
|---|---------------|
| • Number of currently sworn               | 914           |
| • Leave                                   | 41            |
| • Active sworn that can complete training | 873           |
| • Active sworn that still need to attend  | 9             |
| • Completed training as of 12/30/21       | 864           |
| • Percentage active completed             | 98.97 percent |

The lack of oversight that resulted in a finding of non-compliance for secondary compliance in the previous reporting period was effectively addressed during this reporting period. Secondary compliance has been achieved.

## Results

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

### 4.7.137 Assessing Compliance with Paragraph 151

Paragraph 151 stipulates:

**“Unless otherwise noted, the training required under this Agreement shall be delivered within 18 months of the Operational Date, and annually thereafter. Within six months of the Operational Date, APD shall set out a schedule for delivering all training required by this Agreement.”**

## Methodology

APD increased its training output this reporting period, and numerous changes to the schedule took place through the next reporting period. The monitoring team will continue to monitor new policies and changes to the policy that are pending approval, to ensure that the requirements of this paragraph are maintained and that all training required by this agreement is delivered and operationalized in the field. The academy supplied the monitoring team with documentation of the training that was conducted during this reporting period (details demonstrated in paragraph 150).

- Special Order SO 21-88 (Tier 4 UoF Training RBT)
- Special Order SO 21-102 (Phase II Biennium Training)
- Special Order SO 2 Special Order SO 1-144 (Mandatory Supervisor Training)
- Special Order SO 21-97 (Performance Evaluation and Management System)

The training scheduled to continue into the next reporting period is documented on an



EXCEL sheet with delivery dates throughout 2022. We are cognizant of the fact that the current training command is still working through the backlog of training left undone by the previous training command staff and doing so in a careful and methodical manner. This compliance failure rests solely on the previous command cadre at the academy.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.138 Assessing Compliance with Paragraph 152

Paragraph 152 stipulates:

**“APD shall ensure that all new lateral hires are certified law enforcement officers and that they receive all training required by this Agreement prior to entry onto duty.”**

## Methodology

The Lateral Class #27 was delivered during this reporting period (August 1, 2021, through January 31, 2022)

COB documentation was supplied to the Monitor to review lateral hires for the 27<sup>th</sup> Lateral Class to ensure they are certified law enforcement officers. APD, as in previous reporting periods, produced the class schedule for the lateral class. The monitoring team reviewed the material to ensure all training required by the CASA was received prior to entry to duty. As documented by APD training records, all members of the 27<sup>th</sup> Lateral Class were briefed on and presented with the terms of the CASA Agreement. Members of the class completed the review/signature for this reporting period, acknowledging the terms of the CASA. The monitoring team will continue to monitor the lateral hire program in future site visits.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.139 Assessing Compliance with Paragraph 153

Paragraph 153 stipulates:

**“APD shall maintain complete and accurate records of all training provided to sworn APD officers during pre-service and in-service training programs, including curricula, course materials, lesson plans, classroom**

**presentations, handouts, videos, slides, recordings, and attendance records. APD shall also maintain complete and accurate records of any audit, review, assessment, or evaluation of the sufficiency or effectiveness of its training programs. APD shall make these records available for inspection by the Monitor and DOJ.”**

## **Methodology**

The monitoring team’s requests for and subsequent review of records responsive to Paragraph 153 while on the November 2021 site visit produced ample evidence that APD is meeting the requirements of the paragraph. During this reporting period (August 1, 2021, through January 31, 2022), the monitoring team reviewed for this report:

- Performance Evaluation and Management System(PEMS) Training;
- Supervision Training (First Line Supervisory);
- Behavior Science Training (Intro to Peer Support, Suicide Intervention, The Power of Peers);
- SOD Training;
- Use of Force training; and
- SID Training.

APD maintains compliance by making records available for inspection by the monitoring team during site visits.

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.140 Assessing Compliance with Paragraph 154**

Paragraph 154 stipulates:

**“APD shall ensure that changes in relevant case law and statutes are disseminated to APD personnel in a timely manner and incorporated, as appropriate, into annual and pre- service training.”**

## **Methodology**

During the previous reporting period (IMR-14), APD personnel were scheduled to attend the 2021 Legal Update on NM Civil Rights Act. This training spilled into this reporting period (August 1, 2021 through January 31, 2022), and the monitoring team received and reviewed the following documentation to ensure compliance:

- NM Civil Rights Act (100%);
- Academy Updates News Letters Volume 1 through 6 (100%);

- Terry Pat (99.89%); and
- MOE Legal updates Part 1 (99.97%) and Part 2 (99.43%).

Based on past performance by the Advanced Training Unit, APD remains in compliance.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.141 – 4.7.147 Assessing Compliance with Paragraphs 155-161: Field Training and Evaluation Program**

The monitoring team requested, received, and reviewed data required for APD to maintain compliance with paragraphs 155 through 161 for this reporting period (August 1, 2021, through January 31, 2022) in the forms of policy, programs, and results.

During the November 2021 site visit, the monitoring team met with the APD Academy personnel responsible for maintaining the program development and implementation as per SOP 6-1 “Training Division.” As in the previous reporting period, no known applicable changes to case law, core principles, or values had taken place, but, as in the previous reporting period, revisions to SOP 1-46 Field Training and Evaluation Program (FTEP) had been submitted and remain in the chain of command and on hold until the FTEP Operational Manual updates are approved.

For this reporting period, forty-seven (47) cadets from the 124<sup>th</sup> Academy Class began the OJT program on October 30<sup>th</sup>, 2021. The FTEP requires that academy graduates receive sixteen (16) weeks of field training and that recruits not be released from the program without completing the sixteen-week program and continue meeting the requirements of the CASA. This group will not complete the program until the next reporting period. Upon completion, the APD will submit to the Monitor the documentation to support the requirement of the CASA.

During this reporting period, eight (8) cadets graduated from the 26<sup>th</sup> Lateral class and began their OJT program. The program consists of three phases and remedial phases if necessary. As a result of the requirements for this paragraph, the monitoring team reviewed the following Phase assignments for the 26<sup>th</sup> Lateral class Special Orders to ensure compliance for this reporting period:

#### Field Service Bureau Special Orders

- 26<sup>th</sup> Lateral Class SO 21-59, 21-69, 21-73 Phase I;
- 26<sup>th</sup> Lateral Class SO 21-64, 21-64 amended, 21-, 21-77 Phase II; and
- 26<sup>th</sup> Cadet Class SO 21-72, 21-80 Final Phase.

These Field Services Bureau Special Orders maintain APD’s 100 percent compliance

with the program's requirement of sixteen weeks of field training, three phases for the Lateral Program, and no early release from the program.

The monitoring team reviewed the vetting process for the applications and backgrounds of the three (3) new candidates in October 2021 process and January 2022 process (FTO application, written test, basic final test, EWP's, oral board notes and results, board recordings, and certificates). Fourteen (14) candidates were successful in the process and were placed in active status of the program. The monitoring team review of the documentation indicated that all requirements of the CASA were met. APD submits background checks and applications (on an ongoing basis) to the monitoring team for review to ensure compliance.

The FTEP conducted a FTO Basic Course in December of 2021 and supplied the monitoring team with the requisite documentation for the attendees:

- Class roster;
- Participant's folder (pre-test, final test, practical DOR, and certificate);
- Critiques;
- Schedule; and
- Certificates.

The FTEP continued to maintain compliance in the following areas for this reporting period:

- 1) Recruits are trained in multiple Area Commands;
- 2) Recruits are trained in different shifts; and
- 3) Recruits are introduced to different Field Training Officers.

APD supplied the Monitor with documentation to support that field training officers and area sergeant coordinators maintain current and detailed evaluations conducted throughout the OJT program. These reports contain, but are not limited to, the following:

- Category Rating (i.e., driving skills, field performance, officer safety, control of conflict) fifteen categories total;
- Most acceptable performance (comments);
- Least acceptable performance (comments); and
- General observations (comments).

These reports indicate that the FTO program maintains well-documented reports and maintains compliance with the requirements of the Agreement.

The Special Orders listed above support a finding that APD maintains compliance with these requirements.

Members of the monitoring team requested and received COB documentation to ensure APD continues to afford recruits with:

- A mechanism for confidential feedback regarding the quality of field training;
- Consistency between instructional processes developed in-field training and at the Training Academy; and
- APD's consideration of feedback and what, if any, changes are made as a result of a given recruit.

These critiques are categorized into four different sets:

- Field Training Area Sergeant completed by Field Training Officer;
  - Review of the critiques was positive
- Field Training Area Sergeant completed by Sergeant Trainees;
  - Review of the critiques was positive
- Field Training Officer Critique completed by recruit officer; and
  - Seventy-nine critiques completed
    - One related to Interpersonal Skills (Negative score);
    - One related to Trainer Skills (Negative score);
    - Use of available time as training (Negative score);
    - Display positive attitude toward work (Negative score);
    - DOR's completed daily and provided in a timely manner (Negative score); and
    - FTO encouraged me to ask questions (Negative score)
- APD OJT critique completed by recruit
  - Review of the critiques was positive

The monitoring team notes that, of the members who received negative comments, three of the FTO's are not currently active in the program, and the fourth member had never received a negative score before. A review of the scores reflects that the feedback was minimal and very generalized, leaving very little to evaluate the score. As in the past reporting periods, the FTO program has done an excellent job following up on any negative scores to ensure no negative training pattern occurs.

Current FTEP staffing levels:

- Five Lieutenants;
- Nine (9) Field Training Staff Supervisors; and
- Sixty-nine (69) Active FTO's.

The monitoring team will follow up in future site visits on the progress of the program.

#### **4.7.141 Assessing Compliance with Paragraph 155**

Paragraph 155 stipulates:

**“APD shall supervise and manage its field-training program to ensure that new officers develop the necessary technical and practical skills required to use force in accordance with APD policy and applicable law.**

**The field-training program should reinforce, rather than circumvent, the agency's values, core principles, and expectations on use of force and engagement with the community. Field-Training Officers should demonstrate the highest levels of competence, professionalism, impartiality, and ethics."**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.142 Assessing Compliance with Paragraph 156**

Paragraph 156 stipulates:

**"APD shall revise the policies applicable to its field-training program to provide that academy graduates will receive 16 weeks of field training following the training academy and that recruits will not be released from the field-training program early."**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.143 Assessing Compliance with Paragraph 157**

Paragraph 157 stipulates:

**"APD shall revise the qualifications for Field Training Officers to require three (3) years of non-probationary experience as a sworn police officer and to ensure that Field Training Officers have a demonstrated commitment to constitutional policing, ethics, and professionalism."**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.144 Assessing Compliance with Paragraph 158**

Paragraph 158 stipulates:

**"New Field Training Officers and Area Sergeant Coordinators shall receive at least forty (40) hours of**

initial supervisory-level training and annual in-service training in the following areas: management and supervision; constitutional, community-oriented policing; de-escalation techniques; and effective problem-solving techniques. Field Training Officers and Area Sergeant Coordinators shall be required to maintain, and demonstrate on a regular basis, their proficiency in managing recruits and subordinates, as well as practicing and teaching constitutional, community-oriented policing; de-escalation techniques; and effective problem solving. APD shall maintain records of all evaluations and training of Field Training Officers and Area Sergeant Coordinators.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.145 Assessing Compliance with Paragraph 159

Paragraph 159 stipulates:

“Recruits in the field-training program shall be trained in multiple Area Commands and shifts and with several Field Training Officers.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.146 Assessing Compliance with Paragraph 160

Paragraph 160 stipulates:

“APD shall provide a mechanism for recruits to provide confidential feedback regarding the quality of their field training, including the extent to which their field training was consistent with what they learned in the academy, and suggestions for changes to academy training based upon their experience in the field-training program. APD shall consider feedback and document its response, including the rationale behind any responsive action taken or decision to take no action.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**

Operational: **In Compliance**

#### **4.7.147 Assessing Compliance with Paragraph 161**

Paragraph 161 stipulates:

**“The City shall provide APD with the necessary support and resources to designate a sufficient number of Field Training Officers to meet the requirements of this Agreement.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.148 Assessing Compliance with Paragraph 162**

Paragraph 162 stipulates:

**“To maintain high-level, quality service; to ensure officer safety and accountability; and to promote constitutional, effective policing, APD and the Civilian Police Oversight Agency shall ensure that all allegations of officer misconduct are received and are fully and fairly investigated; that all findings in administrative investigations are supported by a preponderance of the evidence; and that all officers who commit misconduct are held accountable pursuant to a fair and consistent disciplinary system. To achieve these outcomes, APD and the Civilian Police Oversight Agency shall implement the requirements below.”**

This Paragraph is an introductory paragraph for IAPS (formerly IAPS --Misconduct Division) and CPOA-related CASA requirements. As such, it requires no direct evaluation but is subsumed by the IAPS and CPOA-related individual requirements below.

#### **4.7.149 Assessing Compliance with Paragraph 163: Duty to Report Misconduct**

Paragraph 163 stipulates:

**“APD shall require that all officers and employees report misconduct by any APD officer or employee, including themselves, to a supervisor or directly to the Internal Affairs Division for review and investigation. Where alleged misconduct is reported to a supervisor, the supervisor shall immediately document and report this information to the Internal Affairs Division. Failure to report or document alleged**



**misconduct or criminal behavior shall be grounds for discipline, up to and including termination of employment.**

## **Methodology**

Paragraph 163 of the CASA pertains to the duty of all APD officers and employees to report misconduct by APD officers and employees, and the duty of supervisors to document information regarding the misconduct of subordinates and to report that misconduct to IAPS. It also requires failure to comply to be grounds for discipline.

During the reporting period and the 15th site visit, members of the monitoring team reviewed a stratified random sampling of twenty investigations for which IAPS was responsible. The sample included fourteen completed by IAPS [IMR-15-22], [IMR-15-23], [IMR-15-24], [IMR-15-25], [IMR-15-26], [IMR-15-27], [IMR-15-28], [IMR-15-29], [IMR-15-30], [IMR-15-31], [IMR-15-32], [IMR-15-33], [IMR-15-34], and [IMR-15-35], and six referred to and completed by the Area Commands [IMR-15-36], [IMR-15-37], [IMR-15-38], [IMR-15-39], [IMR-15-40], and [IMR-15-41]. The monitoring team also reviewed APD regulations and met with the IAPS Commander and staff.

## **Results**

SOP 3-41-4 incorporates and mandates the reporting requirements of paragraph 163. Special Order (SO) 21-15, Internal Affairs Request Through BlueTeam, rescinded a similar SO 19-25 Second Amendment. SOP 3-41-4 specifies that reporting of misconduct by an APD member must occur within 24 hours of when the member has knowledge of, or reasonably should have had knowledge of the misconduct. An Internal Affairs Request must complete this notice within the IA database web application. This process is designed to bring uniformity to the time period in which reporting must take place, and to stipulate the method of reporting.

During this reporting period, we found that all 20 of the IAPS Misconduct cases handled by APD implicated the tasks of paragraph 163. Using 24 hours as a guideline, the monitoring team continues to interpret the term “immediately document and report” in the context of the factual scenario of each case. In the fourteen cases investigated by IAPS noted above, we found the referral time to IAPS to be satisfactory in thirteen cases and not satisfactory in one case. In the six matters referred to area command for investigations, the monitoring team determined that two cases had a satisfactory referral time. Of the remaining four, none of the investigative files contained sufficient information to determine whether the referral to IAPS was timely, [IMR-15-37], [IMR-15-38], [IMR-15-39], and [IMR-15-40]. The recommendation in IMR-14 to require information in Blue Team to indicate when the violation was discovered was implemented in November/December of 2021.

We can find definitive proof of timely referrals in only 75 percent of the 20 cases implicating this paragraph. This falls short of the 95 percent required for operational compliance.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### ***Recommendations for Paragraph 163:***

***4.7.149: IAPS should ensure the required information is entered into the Blue Team system to document the same and ensure timely reporting.***

### **4.7.150 – 4.7.154 Assessing Compliance with Paragraphs 164-168: Public Information on Civilian Complaints**

Paragraphs 164 through 168 of the CASA pertain to the informational program required of APD and CPOA to make the public aware of the procedures for making civilian complaints against APD personnel. These paragraphs also direct that APD and CPOA provide information in Spanish and English and in different informational forums that increase the public's accessibility to complaint forms and facilitate misconduct reporting. These paragraphs also require the acceptance of civilian complaints and require that officers identify themselves upon request. APD and CPOA have had longstanding compliance with this section of the CASA.

In addition to meetings with IAPS and CPOA during the 15th site visit, members of the monitoring team continued to review the APD and CPOA websites for information regarding procedures to make civilian complaints. The monitoring team visited APD and City public properties during this site visit to determine whether informational brochures and Complaint and Commendation forms were available. In addition to APD and CPOA properties, at the one Community Center and two libraries visited, the monitoring team consistently found the informational brochures and Civilian Complaint and Commendation forms available for easy public access. Also visited were two Multigenerational Cultural Centers, which resulted in a recommendation that they, like community centers, should also be supplied with the CPOA informational brochures. That recommendation has been promptly followed.

The monitoring team continues to find the informational program to be effective. Information on complaint filing is available on the APD and CPOA websites. This information and the actual complaint forms were available online (in English and Spanish) on the APD and CPOA websites. CPOA now utilizes a brochure, which provides a tear-off of a postage pre-paid complaint and commendation form, making it easier for the public to engage the agency. The information clearly explains the "mechanisms" for filing complaints and includes complaint and commendation forms that can be filed electronically or downloaded. Complaint forms are readily accessible in hard copy at APD, CPOA, City buildings, as well as from individual patrol vehicles. The information on the hard copy forms is in Spanish and English. The information does not

discourage the filing of complaints and makes clear that complaints can be filed anonymously or by third parties.

Further, based on our review of a stratified random sample of IAPS and CPOA investigations, we found no instances of allegations of refusal to provide name and badge numbers when requested.

In light of this review period's observations of the public information requirements regarding complaints and complaint process and past APD and CPOA performance, the longstanding operational compliance with Paragraphs 164 through 168 of the CASA has been maintained.

#### **4.7.150 Assessing Compliance with Paragraph 164: Public Information on Civilian Complaints**

Paragraph 164 stipulates:

**“Within six months of the Operational Date, APD and the Civilian Police Oversight Agency shall develop and implement a program to ensure the Albuquerque community is aware of the procedures to make civilian complaints against APD personnel and the availability of effective mechanisms for making civilian complaints.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.151 Assessing Compliance with Paragraph 165: Availability of Complaint Forms**

Paragraph 165 stipulates:

**“APD and the Civilian Police Oversight Agency shall make complaint forms and informational materials, including brochures and posters, available at appropriate government properties, including APD headquarters, Area stations, APD and City websites, City Hall, public libraries, community centers, and the office of the Civilian Police Oversight Agency. Individuals shall be able to submit civilian complaints through the APD and City websites and these websites shall include, in an identifiable and accessible form, complaint forms and information regarding how to file civilian complaints. Complaint forms, informational materials, and the APD and City websites shall specify that complaints may be submitted anonymously or on behalf of another person. Nothing in this Agreement**

prohibits APD from soliciting officer commendations or other feedback through the same process and methods as above.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.152 Assessing Compliance with Paragraph 166: Public Information on Complaint Process

Paragraph 166 stipulates:

“APD shall post and maintain a permanent placard describing the civilian complaint process that includes relevant contact information, such as telephone numbers, email addresses, and Internet sites. The placard shall specify that complaints may be submitted anonymously or on behalf of another person. APD shall require all officers to carry complaint forms, containing basic complaint information, in their Department vehicles. Officers shall also provide the officer’s name, officer’s identification number, and, if applicable, badge number upon request. If an individual indicates that he or she would like to make a misconduct complaint or requests a complaint form for alleged misconduct, the officer shall immediately inform his or her supervisor who, if available, will respond to the scene to assist the individual in providing and accepting appropriate forms and/or other available mechanisms for filing a misconduct complaint.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.153 Assessing Compliance with Paragraph 167: Duty to Accept Citizen Complaints

Paragraph 167 stipulates:

“APD agrees to accept all civilian complaints and shall revise any forms and instructions on the civilian complaint process that could be construed as discouraging civilians from submitting complaints.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.154 Assessing Compliance with Paragraph 168: Multi-Lingual Complaint Forms**

Paragraph 168 stipulates:

**“Complaint forms and related informational materials shall be made available and posted in English and Spanish.”**

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.155 – 4.7.168 Assessing Compliance with Paragraphs 169-182: Training Regarding Complaint Intake**

Paragraphs 169 through 182 of the CASA pertain to the steps necessary to receive, accept, and process complaints. These paragraphs require APD and CPOA to receive all complaints, regardless of whether they are made internally or externally and regardless of whether they are made in a timely manner. These paragraphs require an effective and uniform system that is allegation-based for classifying complaints, internal referrals, and appropriate assignment of complaints for investigation.

During the reporting period and the physical site visit, members of the monitoring team utilized the same methodology as prior periods, meeting with the IAPS Commander and members of his staff, the CPOA Executive Director, and members of CPOA staff. We reviewed complaint log-in and classification records, selected (through a stratified random sample), and reviewed 14 IAPS, six area commands, and 10 CPOA investigations completed during the reporting period. The monitoring team also reviewed the APD and CPOA websites and CPOA Board minutes relative to approval of investigations. It should be noted that APD hired a full-time Intake Manager on June 20, 2021. This individual was trained regarding process management, and currently is responsible for the intake of all complaints against members of the APD. This has standardized the intake and classification of all complaints. APD is in full compliance with paragraphs 169 through 177, and 179 through 182.

The findings related to Paragraphs 169 through 182 indicate the following outcomes related to the requirements of the CASA

For this monitoring period, through the review of the stratified random sampling of 20 IAPS cases, we found the following results. Four cases, assigned to area commands for investigation, lacked sufficient documentation to explain delays in reporting potential violations for more than 24 hours after the potential violation was discovered. The four cases that were found to be non-compliant were [IMR-15-37], [IMR-15-38], [IMR-15-39], and [IMR-15-40]. One case, [IMR-15-26], which was assigned to IAPS failed to address the delay in reporting an allegation of misconduct. The results are that five of 20 cases did not comply with the requirements of paragraph 178, which is a 75 percent compliance rate, still below the required 95 percent required for operational compliance. In November-December of 2021, IAPS implemented a change in the Blue Team entry module, which mandates the reporting member to document when the potential violation was identified. This change was implemented too late during this IMR to yield results.

During this monitoring period, and presumably due to the newly created Intake Manager position, no cases IAPS or CPOA cases were found to have been improperly classified for assignment based upon the level of sanctions. In prior reporting periods, numerous cases were improperly classified for assignment based upon the level of sanctions.

In prior findings, the monitoring team consistently found that internal and civilian (external) complaints were accepted, reviewed, and assigned for investigation according to CASA requirements and approved policy. Our continuous review during this reporting period of a stratified random sample of investigations and IAPS and CPOA processes, we found no instances of a refusal or even a hesitation by APD or CPOA to accept a citizen's complaint. Further, we are not aware of any information received formally through our report review processes or informally through our contacts with *amici* and other interested persons that suggest this is an issue. It has been and continues to be a long-standing policy among APD personnel that refusing to accept a complaint or discouraging a complaint are grounds for discipline. Although timely complaints are encouraged, untimely all complaints are accepted, as well as anonymous and third-party complaints. The monitoring team has also seen annual written requests from APD to relevant judicial officials requesting that APD be made aware of all allegations of officer misconduct made by judicial officials.

APD has developed and uses a centralized numbering and tracking system that assigns unique identification numbers to all received complaints. Complaints are received and classified according to allegations and not potential outcomes.

Based on our comparisons with known data, the tracking system appears to be used correctly and maintains accurate data. APD's Blue Team management software enables the tracking of allegations of misconduct by the homeless or those who have a mental illness. Our reviews of the relevant logs and investigations continue to show that complaints referred to or directly made to APD and IAPS that are within the jurisdiction of the CPOA are referred to CPOA within three (3) business days.

Regarding the requirements to accept anonymous and third-party complaints per paragraph 172, our review of the IAPS log of civilian complaints referred to CPOA shows that "anonymous complaints" are accepted by IAPS and forwarded to CPOA. Our

random sample for IMR-15 did not contain any cases based on a third-party complaint. Based on these findings and past operational compliance, APD and CPOA continue to be in full compliance with paragraph 172.

Moreover, we continue to find no cases in which APD received a civilian complaint of misconduct and failed to inform supervisors in a timely manner or failed to timely refer a complaint to IAPS. Thus, we continue to find operational compliance with paragraph 173.

Our stratified random sample found no instances in which a supervisor investigated an incident in which the supervisor was involved as a participant or witness. Therefore, operational compliance by APD for paragraph 182 continues.

We note that during this reporting period, APD released an updated SOP AO 3-41, Complaints Involving Department Policy or Personnel, which addresses the procedures for accepting, processing, and investigating allegations of employee misconduct. We also note that IAPS started, in the IMR-13 period, consultations with the monitoring team which resulted in extensive technical assistance in overhauling its complaint intake function. In June 2021, APD hired a dedicated Intake Manager responsible for the proper intake and classification of all incoming complaints received by IAPS. This move was made to rectify misclassifications of complaints and complaints with a discipline sanction level of 5 or above, assigned to area commands.

The revised AO 3-41 and the improved complaint intake function have facilitated compliance with this section of the CASA. In IMR-12, the monitoring team stated that it expected the revised AO 3-41 would be implemented no later than the expiration of the IMR-13 review period. A draft of AO 3-41 was disseminated to all concerned partner agencies for review and recommendations and was expected to be implemented by the end of the IMR-14 period. Unfortunately, the policy was not implemented by the end of that period but was implemented on October 19, 2021, during this period.

#### **4.7.155 Assessing Compliance with Paragraph 169: Training on Complaint Intake**

Paragraph 169 stipulates:

**“Within six months of the Operational Date, APD shall train all personnel in handling civilian complaint intake.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.156 Assessing Compliance with Paragraph 170: Complaint Receipt Process**

Paragraph 170 stipulates:

**“APD shall accept complaints regardless of when they are filed. The City shall encourage civilians to promptly report police misconduct so that full investigations can be made expeditiously, and the full range of disciplinary and corrective action be made available.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.157 Assessing Compliance with Paragraph 171: Prohibition of Refusal to Take Complaints**

Paragraph 171 stipulates:

**“The refusal to accept a misconduct complaint, discouraging the filing of a misconduct complaint, or providing false or misleading information about filing a misconduct complaint shall be grounds for discipline.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.158 Assessing Compliance with Paragraph 172: Acceptance of Anonymous Complaints**

Paragraph 172 stipulates:

**“APD and the Civilian Police Oversight Agency shall accept all misconduct complaints, including anonymous and third-party complaints, for review and investigation. Complaints may be made in writing or verbally, in person or by mail, telephone (or TDD), facsimile, or electronic mail. Any Spanish-speaking individual with limited English proficiency who wishes to file a complaint about APD personnel shall be provided with a complaint form in Spanish to ensure that the individual is able to make a complaint. Such complaints will be investigated in accordance with this Agreement.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**



#### **4.7.159 Assessing Compliance with Paragraph 173: Inform Supervisors of Citizen Complaints**

Paragraph 173 stipulates:

**“All APD personnel who receive a misconduct complaint shall immediately inform a supervisor of the misconduct complaint so that the supervisor can ensure proper intake of the misconduct complaint. All misconduct complaints shall be submitted to the Internal Affairs Division by the end of the shift following the shift in which it was received.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.160 Assessing Compliance with Paragraph 174: Allegation by Judicial Officers**

Paragraph 174 stipulates:

**“APD and the Civilian Police Oversight Agency shall develop a system to ensure that allegations by a judicial officer of officer misconduct made during a civil or criminal proceeding are identified and assessed for further investigation. Any decision to decline investigation shall be documented.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.161 Assessing Compliance with Paragraph 175: Allegations Made by the Homeless or the Mentally Ill**

Paragraph 175 stipulates:

**“APD and the Civilian Police Oversight Agency shall track allegations regarding misconduct involving individuals who are known to be homeless or have a mental illness, even if the complainant does not specifically label the misconduct as such.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.162 Assessing Compliance with Paragraph 176: Centralized Complaint Numbering System**

Paragraph 176 stipulates:

**“Within six months of the Operational Date, the Internal Affairs Division, in coordination with the Civilian Police Oversight Agency, shall develop and implement a centralized numbering and tracking system for all misconduct complaints. Upon the receipt of a complaint, the Internal Affairs Division shall promptly assign a unique numerical identifier to the complaint, which shall be provided to the complainant at the time the numerical identifier is assigned when contact information is available for the complainant.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.163 Assessing Compliance with Paragraph 177: IAD Complaint Data Management**

Paragraph 177 stipulates:

**The Internal Affairs Division’s tracking system shall maintain accurate and reliable data regarding the number, nature, and status of all misconduct complaints, from initial intake to final disposition, including investigation timeliness and notification to the complainant of the interim status and final disposition of the investigation. This system shall be used to determine the status of complaints and to confirm that a complaint was received, as well as for periodic assessment of compliance with APD policies and procedures and this Agreement, including requirements on the timeliness of administrative investigations.**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.164 Assessing Compliance with Paragraph 178: Supervisors to Provide Complaint Information**

Paragraph 178 stipulates:

**“Where a supervisor receives a complaint alleging that misconduct has just occurred, the supervisor shall gather all relevant information and evidence and provide the information and evidence to the Internal Affairs Division. All information should be referred to the Internal Affairs Division by the end of the shift following the shift in which the misconduct complaint was received, absent exceptional circumstances.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not in Compliance**

#### ***Recommendation for Paragraph 178:***

***4.7.164a: In November/December 2021, IAPS implemented the monitor’s recommendation suggesting that IAPS should require supervisors to document in BlueTeam reporting module the date they learned of the alleged violation and explain any delay in reporting to IAPS. APD should follow-up this implementation with an assessment of what improvements, if any, have resulted from this change.***

#### **4.7.165 Assessing Compliance with Paragraph 179: Referral of Complaints to CPOA**

Paragraph 179 stipulates:

**“Within three business days of the receipt of a misconduct complaint from a civilian, the Internal Affairs Division shall refer the complaint to the Civilian Police Oversight Agency.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.166 Assessing Compliance with Paragraph 180: Handling of Internal Complaints by IAD**

Paragraph 180 stipulates:

**“Internal misconduct complaints submitted by APD personnel shall remain with the Internal Affairs Division for review and classification. The Internal Affairs Division shall determine whether the internal complaint will be assigned to a supervisor for investigation or retained by the Internal Affairs Division for investigation. In consultation with the Chief, the commanding officer of the Internal Affairs Division shall also determine whether a civilian or internal complaint will be investigated criminally by the Internal Affairs Division, the Multi- Agency Task Force, and/or referred to the appropriate federal law enforcement agency.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.167 Assessing Compliance with Paragraph 181: IAD Classification Protocol**

Paragraph 181 stipulates:

**“APD shall continue to maintain an internal complaint classification protocol that is allegation-based rather than anticipated-outcome-based to guide the Internal Affairs Division in determining where an internal complaint should be assigned.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.168 Assessing Compliance with Paragraph 182: Prohibition from Self-Investigation**

Paragraph 182 stipulates:

**“An internal complaint investigation may not be conducted by any supervisor who used force during the incident; whose conduct led to the injury of a person; who authorized the conduct that led to the reported incident or complaint; or who witnessed or was involved in the incident leading to the allegation of misconduct.”**

## **Results**

Primary: **In Compliance**

Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.169--4.7.180 Assessing Compliance with Paragraphs 183-194: Investigation of Complaints**

Paragraphs 183 through 194 of the CASA pertain to requirements for thoroughness, timeliness, reliability of findings, and overall quality regarding the investigation of misconduct complaints. These paragraphs require that all relevant evidence be considered and that those investigations are fair, impartial, and reach reliable findings. They also require time limits for completion of investigations, designate permissible findings with the corresponding standard of proof, and an assessment regarding whether the facts of an investigation indicate a need for change in policy, procedure, or training. In addition, requirements are set forth regarding the situations in which there may be simultaneous criminal and administrative investigations of the same subject matter.

Regarding paragraphs 183 through 194, during the 15<sup>th</sup> reporting period, members of the monitoring team reviewed a stratified random sampling of 20 investigations for which IAPS was responsible (14 completed by IAPS and six completed by the area commands). In addition, a stratified sampling of 10 investigations completed by CPOA was reviewed. The monitoring team also met with the Chief of Police and the City Attorney, the CPOA Executive Director, CPOA Legal Counsel, the IAPS Commander, attended virtual meetings with CPOA Board members, and reviewed CPOA Board meetings and agenda minutes and findings on the CPOA website.

The commander of IAPS now requires supervisory reviews of investigations at 10, 20, and 40 days after assignment. Also, investigations must be complete within 70 days of assignment, and the commander must approve any extension. The commander must likewise approve requests for the chief's approval for an extension of IAPS cases beyond 90 days. The commander also performs a weekly "timeline check" on every open IAPS investigation, and investigations surpassing 60 days are automatically flagged for the commander's review. Approval of completed investigations is electronically signed by the commander, leaving no room for a challenge of when the investigation was completed. The timeline for reviewing a completed investigation by the chain of command through the chief is also tracked.

Organizational changes have also been implemented that will improve the quality of investigations and timeliness. The initial crucial steps in the IA process – proper intake/preliminary assessment/assignment were also assessed. During the week of June 20, 2021, a Civilian Intake Manager was hired and began his duties to intake and classify all incoming complaints.<sup>126</sup> This position has allowed the lieutenant to oversee area command investigations and the IAPS Commander to focus on the quality and thoroughness of investigations. The Civilian Intake Manager now decides which allegations to forward to the area command for investigations and is available if called upon for guidance and quality control for those minor investigations assigned to the area

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<sup>126</sup> This is the civilian equivalent of a deputy commander.

commands. Once investigations are assigned to IAPS investigators, the quality of those investigations is monitored by a separate Investigations manager. As we pointed out in the discussion of paragraphs 169-182, the monitoring team continues to provide extensive technical assistance regarding the Complaint Intake function. There is also an improved communication process among the parties and monitoring team regarding intake and discipline, as discussed in our review of paragraphs 201-202.

A mediation protocol is in place through a Memorandum of Understanding between the City, APD, APOA, and CPOA. The mediation process is thoroughly discussed in the narrative section of Paragraphs 271-292.

APD personnel are required by policy to cooperate with the Internal Affairs system. In past IMRs, we found instances in our random sample of investigations in which a member of APD refused to cooperate with an investigation. In this period, no cases were discovered indicating any refusal to cooperate. Therefore, APD continues to demonstrate operational compliance with requiring cooperation in internal affairs investigations.

Based on past reviews, we have found that non-use of force investigations conducted by IAPS, and investigations conducted by CPOA, generally have contained reliable findings. The monitoring team's reviews focused on cases that were forwarded to IAPS as a result of Use of Force reviews from cases that were out of compliance with the Use of Force policies and/or collateral violation issues from those cases. We continue to note serious concerns about the quality of these investigations and the lack of adequate documentation of investigative steps by the area commands. We continue to believe the lack of executive oversight of the area commanders regarding how to conduct an internal investigation and the principles of progressive discipline are largely responsible for this state of affairs. During this reporting period, APD sent some area commanders, and all investigators from IAPS and IAFD Internal Affairs investigators to advanced IA training. This training was provided by the Institute of Police Training and Management's (IPTM) basic internal affairs investigation training. Unfortunately, not all personnel tasked with conducting internal affairs investigations, specifically many supervisors, were able to be sent to this training. We have advised APD leadership on many occasions that the keys to success in the reform process are specific training for supervisors and close oversight of those supervisors by command and administrative processes. Specific internal affairs training related to APD policy requirements is needed in order to provide those who are tasked with conducting internal affairs investigations with the necessary tools to conduct fair, objective, and thorough investigations that are in compliance with the CASA and industry standards. APD has worked to create such training and the monitoring team has provided technical assistance to help create a viable training for that purpose. This training was in the final approval process at the end of this period. APD expects that the new internal affairs training will be implemented and delivered to the required personnel in March of 2022.

During this monitoring period, APD reported that two cases, which were not part of the stratified random sample of cases reviewed, were sent to outside investigative entities for investigation. The IAPS Commander advised that he has spoken with City Legal

about the recommendation that a protocol is implemented to regulate the intake, assignment, receipt, and review of these externally referred investigations. As of the end of the 15<sup>th</sup> reporting period, no formal protocol has been established.

Again, during this reporting period, our stratified random sample revealed investigations deemed to be deficient. The deficiencies noted are based on the review of the completed files for these cases, as provided to the monitor by APD. These are discussed below.

First, our review of the 20 cases that the area commands (six cases) and IAPS (14 cases) completed revealed no administratively closed cases. The IAPS Commander advised that he has discontinued administratively closed cases once an "I" number has been assigned. The review of the 10 cases that CPOA was responsible for revealed two cases that resulted in at least one administratively closed finding and one case that was found to be improper. These cases are discussed further in paragraphs 271-292 of this report.

#### Area Command and IAPS Case Reviews Found to be Deficient

[IMR-15-22] was an investigation resulting from a Use of Force Investigation review, in which officers from the Auto Theft Unit and uniformed patrol officers observed a vehicle that was confirmed to be stolen. Numerous detectives and officers were requested for assistance. They observed a person known to them as having prior criminal arrests to be driving the vehicle. Two other persons were passengers in the vehicle. The officers planned a controlled takedown at an apartment complex. When they executed the takedown, the two males immediately fled on foot after being told that they were under arrest, to stop, and that force would be used against them if they didn't stop. Officers physically caught the two male suspects independently. The female was compliant with the officers' commands and was later determined not to have knowledge that the vehicle was stolen. The force investigation revealed that the level 2 force used was appropriate and within policy. Subsequently, it was learned that all officers were equipped with body cameras, which were activated. However, one officer failed to upload his recordings within the time requirement. It was eventually uploaded. Two of the officers' body camera recordings did not capture the entire encounters as required by policy. The two males who were ultimately arrested had backpacks/property that was removed from their persons, but the officers failed to log that property into their evidence unit. Three officers were ultimately disciplined for their violations. Discipline ranged from a written reprimand to suspension without pay. This investigation focused on the administrative violations, not the use of force that was addressed in the force investigation and reviewed by the Force Review Board. The investigation never determined what happened to the backpacks nor what was believed to be a pocketknife. The investigator questioned one officer to try to determine what happened to the suspects' property. Since the officer could not provide any information as to what occurred, it would have been most appropriate to attempt to interview the suspects to determine if the property was returned to them. There's nothing documented in the investigation to indicate any attempts to do so were made.

The investigation revealed that a communication error occurred because another officer handled that suspect's arrest and only charged that suspect with an unrelated felony warrant. The internal investigation did not address whether a policy violation occurred, and the cause of the error was not identified. The IA investigator interviewed the Auto Theft Unit members but did not interview the officer who processed the suspect who was not appropriately charged. That officer should have been formally interviewed because the issue was not resolved. The officer's OBRD recorded some conversation about that suspect, and the officer was told that he was just a passenger. Without the interview of the involved officer, it cannot be determined why the officer did not charge that suspect with receiving a stolen vehicle or eluding apprehension charges.

[IMR-15-26] was an internal affairs investigation that was initiated upon the complaint of a civilian witness at the Metropolitan Detention Center. It was alleged that a Prison Transport Officer (PTO) engaged in an unprofessional argument with a prisoner in the center and used foul language. It was alleged that the PTO also made a statement to the effect that the prisoner was lucky that he did not have a firearm on him at the time and another comment that he would shoot the prisoner on the streets. The investigation revealed that the individual was suspected to be intoxicated and was vocally antagonistic toward another prisoner and the PTO. The PTO engaged in a verbal discussion in which foul language was used. A Community Service Aide was also present and recorded part of the discussion, which clearly captured some foul language on the part of the PTO and conversation that he "may" shoot the subject if encountered on the street. An extensive investigation was conducted. However, several pertinent issues were not addressed appropriately in the investigation. The investigation did not address the alleged original reporting of this incident by the involved PTO. The PTO was obligated by policy to report the misconduct. The PTO alleged they reported it to a supervisor that shift but was told by the sergeant not to compose any reports on what occurred. Nothing in this investigation indicates if they reported this to a supervisor or if that supervisor met the responsibility for reporting the alleged misconduct.

Thirty-seven days later, a civilian nurse reported the incident to a supervisor, who immediately notified his chain of command, and a Blue Team entry was made. The report and the Blue Team entry mistakenly list the date of the report that the complaint made was a month later than it actually occurred. It was clear by looking at the dates of the early interviews that this appeared to be a clerical error and did not affect the completion date.

Another allegation in this case was that a CSA was concerned with the verbal dispute between the PTO and the prisoner, so they activated their agency-issued audio recorder to capture what was being said. The CSA advised that the PTO involved observed the recorder and shut it off. The investigation revealed that both PTO and the CSA indicated that the PTO shut the recorder off before confirming it belonged to the CSA. The CSA and PTO discussed the incident being audio recorded and made some reference to the CSA about being a "snake" for recording him without his knowledge. That allegation was classified as a violation of the Anti-Retaliation policy but was later determined to be a conduct violation in a departmental disciplinary hearing.



During the interview, the investigator inquired about the PTO's statements to the prisoner but failed to directly ask if he made a statement that he "may" shoot the prisoner if he encountered him on the street. The PTO stated that he simply advised the prisoner that he may be armed with a firearm on the street. The PTO reasoned that he made that statement as a matter of fact because he has a permit to carry a firearm and felt if the prisoner knew, he would not attack him if they encountered each other on the street. The actual recording made by the CSA clearly reveals the conversation was more specific, and the PTO should have been directly asked by the investigator, so he could have taken responsibility for making that statement. The statement of the PTO borderlines on lack of candor. This investigation of this case fails to be compliant with the provisions of the CASA.

[IMR-15-30] This investigation was a referral from the Force Review Board. This case stems from a review of a use of force by an officer who was assisting in a domestic violence investigation. The officers were dispatched to the scene. Upon arrival, they located a male and a female. The responding officer attempted to arrest the male, and a secondary officer arrived to assist. They struggled with the male on the ground and were able to handcuff him. They located the female, who departed on foot, and she stated that they were at a party, and the male ultimately assaulted her. The secondary officer arrived back at the arrest scene, and the arrestee was still uncooperative, sitting on the ground and refusing to enter the police vehicle. The secondary officer assisted in forcibly picking him up and tried placing him into the rear seat. While handcuffed, he struggled, preventing the officers from getting him in the vehicle. The secondary officer punched the male in the face at one point. After the individual was punched, the officers were able to get him in the vehicle. The incident was reported to a supervisor, who made the necessary notifications and the IAFD responded to investigate. IAFD's investigation indicated that the force was within policy, which was reviewed and concurred with through their chain of command. The FRB reviewed the case and determined that while force was justified, punching the individual in the face was unnecessary or disproportionate to the action they were trying to overcome.

An investigation was conducted by IAPS to review the investigation and final finding by the IAFD, and to determine if the officer violated policy by punching the individual in the face. The investigation reviewed all pertinent documentation and information regarding the incident. The IAFD investigation failed to sustain a violation of policy, based on the fact that the use-of-force policy permits the use of force against a subject to move a subject who is passively resisting or actively resisting. The IAFD investigation was completed and reviewed by the chain of command. This investigation resulted in a sustained finding that the IAFD investigator failed to consider the actual act of striking the individual in the face. The IAFD supervisor and the commander both concurred with the investigator's conclusions, apparently without considering that failure. The commander has since retired, but a violation of the policy that holds supervisors accountable for proper investigations was sustained. Since he was retired, no administrative action could be taken. The allegations against the IAFD investigator and the sergeant were both sustained, but due to the fact that the policy allowed for the use of force and the fact that the FRB voted that the investigation was complete and thorough, no disciplinary action was taken. Both individuals were reassigned out of IAFD. The critical issue in this

investigation was that it did not directly address why the complainant, an FRB voting member, delayed reporting the suspected misconduct to IAPS until May 26, 2021, when the FRB met six days earlier, on May 20, 2021. This constitutes a serious failure in process and should have been addressed by IAPS and FRB.

[IMR-15-36] was initiated as the result of a monthly audit of line inspections, during which a sergeant discovered that two OBRD recordings from May 1, 2021, and one OBRD recording from May 5, 2021, were not uploaded until May 10, 2021. As a result, the allegation of the OBRD violation was reported on May 27, 2021, and a Blue Team entry was submitted for an IAR. On June 2, 2021, the case was assigned to Criminal Investigation Area Command. A memo from the sergeant indicated that he discovered the incident on the OBRD audit log, checked the specific member's schedule, and learned that they worked May 3<sup>rd</sup>, which would have been the subsequent shift by which the recordings from May 1<sup>st</sup> were mandated to be uploaded. The memo also indicated that the OBRD policy was discussed with personnel during the Violence Intervention Unit handbook creation. The memo does not indicate that the sergeant or anyone else spoke with the specific officer or interviewed her concerning these violations. A memo from the area commander indicated that the specific officer was spoken to and is aware of the policy. The very basic minimum investigation on a case such as this is to collect the supporting documentation (audit log, schedules), check for any potential signs of technical malfunction, and to interview the subject officer to provide them with the opportunity to either accept responsibility for violating the policy or to provide some explanation which could negate or mitigate the need for corrective action. This case indicates that the sergeant checked the schedule, but a printed copy was not attached. This case is very basic and very fact specific but cannot be described as complete or thorough. Therefore, it is not operationally compliant with the requirements of the CASA.

[IMR-15-37] and [IMR-15-38] were investigated by area command personnel. These cases were initiated due to the fact that two officers failed to appear at a scheduled hearing before the State of New Mexico Administrative Hearing Office on July 12, 2021. A letter was received from the court time-stamped as July 13, 2021. It is unclear when the letter was received by APD, but a Blue Team entry was submitted by a supervisor on August 25, 2021. The cases were assigned to the area commander for investigation. A lieutenant was assigned to investigate and compose a memo outlining their investigative steps, including speaking with the officers. According to the memo, the officers candidly stated they simply forgot about the hearing. The investigation is a matter of fact, but the officer was afforded an opportunity to provide his account in this case. Although it is preferred that any interviews be recorded to codify exactly what was said, there's no reason to doubt the lieutenant's version. The investigation sustained the policy violation for not attending court, and deliberation between the area command and IAPS resulted in no corrective disciplinary action. This practice is consistent with other newer officers who missed a court hearing. This investigation met the minimum standard to make a logical conclusion. We do note that the case file must establish that the reporting requirements are met. Unfortunately, while the investigation reached the right conclusion, the case file does not address the key points of the issues at hand. This case is not operationally compliant due to these deficiencies.

[IMR-15-39] was investigated by an area command. This case was initiated upon receiving notice from the State of New Mexico Administrative Hearings Office that an officer failed to appear for a motor vehicle driver's license suspension hearing on June 18, 2021, after being subpoenaed. The result of the officer's failure to appear was that the affected individual's driver's license was not suspended. This incident was sent to the officer's area command for investigation. It appears to have been handled nonchalantly, as no documentation was completed to indicate any investigative steps or actions. The only document that mentions specific related facts was the recommended discipline document that indicates the officer had no prior history of missing court and that the officer advised he got confused. That would indicate some type of interview, but no documents indicate an interview was conducted. Other than the recommended discipline document, there is no supporting documentation to indicate that the officer was in fact subpoenaed. Based upon the lack of documentation, it cannot be determined what occurred in this case. This was a reported allegation of a violation of policy, which should have been investigated. There's no documentation indicating that an investigation was done. The allegation was sustained but no disciplinary action was taken. No information was included as to when or who was notified in the APD, as no Blue Team information was provided. The timeliness of the reporting requirements cannot be determined based upon the case file. This case is not operationally compliant with the requirements of the CASA.

[IMR-15-40] was investigated by the Foothills Area Command. During an audit of Command-line inspections, a supervisor observed that an officer's OBRD recordings were not uploaded for the date of October 6, 2021 until October 8, 2021 and reported the same to his area command. An investigation by the area commander revealed that the specific officer did dock their OBRD on October 7 2021 and the technical data sheet revealed it charged but apparently did not upload the recordings. The recordings were uploaded with the next day recordings. The conclusion was that there was not violation of policy by the officer and the finding was Unfounded. This was obviously handled as a matter of fact and the commander did document his investigative steps and included the supporting CAD documentation. Unfortunately, there is nothing contained within the documentation as to why the issue was identified on October 16, 2021, but not reported via Blue Team. The first documentation that IAPS was aware was on October 21, 2021, the date on the target letter. The reporting requirements are that any allegation of a violation of policy must be reported to IAPS by the end of the next shift. It is clear that the supervisor who discovered the issue reported it immediately, but it is not documented to whom it was reported. Unfortunately, we cannot determine if this case was reported within policy, therefore, it is not in operational compliance.

[IMR-15-41] This case was classified as a level 6 case, assigned to the SE Area Command for investigation. This case was initiated upon notification that an Officer's patrol vehicle was clocked speeding, 76 mph in a 40-mph zone. At the time, it was reported that the involved officer was enroute to a level 2 priority call for service. This incident was apparently handled as a matter of fact, as no investigation or documentation of any corrective or investigatory action was completed or submitted. If a certified speed monitoring device captured the officer/patrol vehicle speeding, it would most likely be appropriate to sustain the allegation that the driver violated the policy on

safe operation of assigned patrol vehicles. Unfortunately, even in cases that are fact specific, it is incumbent on the investigator to gather the evidence, i.e. evidence to support the speed, date and time, and officer's identity; documentation that the speed monitoring equipment is calibrated and operating properly, a photo of the vehicle/driver if that equipment captures such evidence, a copy of the CAD report that dispatched the officer to the call, some documentation to support that there was a level 2 priority call that he was dispatched to, when APD was notified about the speeding violation and how, some formalization of the interview of the involved officer, weather and traffic conditions to determine if the high speed endangered anyone, etc. In this case, the officer apparently accepted responsibility for speeding, but based upon the contents of the case file, the APD has no documented proof or evidence to support the sustained finding. In short, the investigative practices noted in this case fall short of what would be required for operational compliance with the requirements of the CASA.

During the review of the stratified random sampling of investigations, no cases were identified as being assigned to outside investigative entities for any conflicts of interest; however, two cases that were not selected in the random sampling process were. In IMR-14, two such cases existed and an issue concerning the quality control of those investigations and the review of those investigations was brought to light. A recommendation was made for APD to create a formalized protocol for review. To date, we have noted no formalized protocol that has been established.

A comprehensive review of the 10 CPOA cases reviewed by the monitoring team is discussed in paragraphs 271-292 of this report. However, it was determined that there were noticeable best practice deficiencies within these investigations that variably impact on the reliability of findings, as indicated. We continue to find that the CPOA has difficulties in achieving operational compliance regarding quality of investigations.

Regarding six investigations completed by the area commands and 14 investigations by IAPS in our stratified random sample, we find four that report unreliable findings, based on the documentation contained within the case files. Deficiencies were noted in nine investigations, as outlined above. Any deficiencies in the imposition of discipline in these matters are discussed more fully in this report's Discipline and Transparency section (paragraphs 201-202).

The investigations conducted by the area commands continue to generate serious concerns regarding uniformity and thoroughness. Casefile materials should generally reflect reviews of allegations and summaries as opposed to actual investigations. In most of these matters, it cannot be determined if the subject officer was actually interviewed. When the officers are interviewed, there are only short synopses of what the officer stated. In some cases, a factual description of the alleged misconduct is missing, and only conclusory references to SOP violations are contained in the investigative materials. The lack of formalization of the investigations conducted by the area commands remains problematic and fails to provide sufficient detail to reach operational compliance requirements.

Considering the review of the stratified random sample of the twenty investigations conducted by the area commands and IAPS, deficiencies were noted in the thoroughness and quality of nine investigations. This yields a 55 percent operational compliance rate. Although this is a vast improvement since IMR-14, where there was only a 6 percent operational compliance rate, this remains far from the 95 percent compliance standard. The increase in operational compliance is attributed to the investigations completed by IAPS personnel. None of the investigations investigated by the Area Commands were deemed to be operationally compliant again this period. At this point, policies and training regarding investigative processes for internal complaints exist. The quality of investigations is greatly diminished by the lack of adequate documentation of the investigations by the investigators. This directly reflects the poor nature of quality control by area command personnel. Quite simply, most of the investigations appear to have reached a logical conclusion, but six lacked sufficient supporting documentation to reach reliable conclusions. The cases reviewed indicated fact witnesses who were never interviewed and failed to include supporting documentation germane to the allegations.

It is not clear whether the deficiencies noted in these area command investigations are caused by a failure to uniformly document the evidence considered and the investigative steps uniformly taken, or due to summary and inadequate investigations. What is clear is that, although area command investigations should involve only minor allegations (Sanction level 6-7), these investigations must still meet the CASA requirements pertaining to the quality of investigations. These failures are serious impediments to “good order and discipline,” and indicate a need for direct attention by APD.

In IMR-13 and IMR-14, we noted that “APD must pay immediate attention to completing the training required for the area command investigators and must immediately act to standardize and upgrade the area command investigations, as well as the area command imposition of discipline (more fully discussed in the Discipline and Transparency, paragraphs 201-202, section of this report). Moreover, the IA investigations conducted by the area commands will continue to receive detailed scrutiny from the monitoring team.”

During this period, a review of a stratified random sampling of the 20 investigations found no cases that were classified other than Level 6 and Level 7, which were assigned to Area Commands for investigation. This is a positive sign that more deliberate assessments are being made during classification of complaints.

We strongly suggest that APD conduct a thorough quality review of all cases the monitor found to be deficient or in which the monitor identified shortcomings to determine how these shortfalls made it through supervisory and command review at IAPS. This trend continues to be problematic, and directly calls into question APD’s commitment to supervision, command oversight, and control.

In IMR-12, we stated that it was not uncommon for APD to assign individuals to task-specific assignments without prior training to build the requisite knowledge, skills, and abilities (KSAs) required in that assignment, and we therefore suggested appropriate

external training. APD contracted for such training in August 2021. Area commanders, members of IAPS, and other personnel responsible for supervisory reviews over IAPS investigations attended the Institute of Police Training Management (IPTM) for basic Internal Affairs Investigation training. During the November 2021 on-site visit, the monitoring team met with the area commanders and discussed the training they received. They all indicated that the training was beneficial in their overall understanding of the internal affairs investigation process but was not specific enough to teach them how to conduct a proper internal affairs investigation. This was discussed with the IAPS Commander, who began developing a specific training set for any personnel who would be responsible for conducting internal investigations. The IAPS Commander briefed the monitoring team regarding the progress made, and at the end of this monitoring period, the training was awaiting the final review. APD anticipates that the specific Internal Affairs Investigation training will be implemented and delivered to the appropriate APD members during IMR-16 period.

Likewise, CPOA was found to be not in operational compliance with paragraph 183. The CPOA findings and advisements are discussed in greater detail in paragraphs 271-292.

In addition to the CASA criteria for administratively closing cases, the monitoring team, in past IMRs, agreed that CPOA might also use an administrative closure disposition in cases in which a preliminary investigation reveals the allegations cannot be minimally sustained. The monitoring team has approved using a finding of "unfounded" in place of administrative closure in such situations. As with the prior use of administrative closures based on a preliminary investigation, we again caution CPOA not to utilize this disposition for the sake of expediency to counter the effect of an increased workload and present staffing levels.

During this period, IAPS administratively closed five cases during the intake process, after determining that there was no violation of policy based on a preliminary review.

In the cases reviewed by the monitoring team during this reporting period, we found two cases that had preliminary indications of potential criminal conduct [IMR-15-27] and [IMR-15-28]. [IMR-15-27] that stemmed from a custody issue in which an individual advised he was the father of two children and their mother has not allowed him to see them. He requested a police escort to check on them/visit with them for a brief period. The father tried to physically take the children from their caretaker and the officers would not permit him to do so. Shortly after being denied the ability to take his children, the father became upset and hostile toward the officers. At one point, one of the officers tackled the individual, while he was walking away, causing him to suffer a facial injury. The Multi-Agency Task Force conducted a criminal investigation into the actions of the officer(s). That investigation sustained findings against the officer for improper use-of-force and the officer was terminated from employment.

[IMR-15-28] stemmed from a motor vehicle stop, which resulted in the driver of the stopped vehicle pulling away from the stop, and one of the officers firing his firearm into the vehicle. That incident was also criminally investigated by the Multi-agency Task Force. The investigation resulted in the termination of the officer found to have

improperly used deadly force. In both cases, bifurcated administrative investigations were conducted. We find the coordination between the criminal and administrative aspects of this matter to be proper.

Based on our review of the findings in a sample of cases for the 15<sup>th</sup> reporting period, APD and CPOA remain in operational compliance with the requirements of paragraphs 186 through 188.

We likewise found no cases in which an officer failed to submit a public safety statement by claiming that the statement would be self-incriminating. Given APD's performance related to this requirement over the past five reporting periods, the monitor continues to find APD in full compliance with the requirements of Paragraph 189.

Regarding the time requirements contained in Paragraph 191, the past performance of IAPS and CPOA generally have been consistent in terms of timely completion of investigations once they are assigned. In our current stratified random sample of the twenty investigations for which IAPS was responsible, all cases were completed within mandated time frames. As stated in prior monitor's reports, the IAPS commander implemented a management system to track cases at appropriate intervals, which has resulted in full operational compliance.

No instances of IAPS investigations are outside the required 90-day time limit for completeness. The timeliness of CPOA investigations has achieved operational compliance and is addressed in detail in paragraphs 271-292.

#### **4.7.169 Compliance with Paragraph 183: Investigations Reach Reliable Conclusions**

Paragraph 183 stipulates:

**“APD and the Civilian Police Oversight Agency shall ensure that investigations of officer misconduct complaints shall be as thorough as necessary to reach reliable and complete findings. The misconduct complaint investigator shall interview each complainant in person, absent exceptional circumstances, and this interview shall be recorded in its entirety, absent specific, documented objection by the complainant. All officers in a position to observe an incident or involved in any significant event before or after the original incident, shall provide a written statement regarding their observations, even to state that they did not observe anything.**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

**Recommendations for Paragraph 183:**

**4.7.169a: City Legal should appoint an independent review and approval authority for all external APD IA investigations that are conducted by an independent investigator. The appropriateness of selection of independent investigators should be documented in writing.**

**4.7.169b: Investigations in which the complainant or logical witnesses are not interviewed, or in matters that are administratively closed, the investigation should include a clear explanation of why the interviews were not conducted and or why further investigation steps were not warranted. These should be subject to managerial oversight regarding appropriateness.**

**4.7.169c: APD must ensure that investigations conducted by the area commands are held to the same standards that apply to IAPS and CPOA and are CASA compliant.**

**4.7.169d: APD should create an investigative guide with a checklist of requirements to assist any investigator in completing a thorough, fair, objective investigation. The guide should include interviewing the complainant (where possible), collection of any and all supporting documentation and evidence, interviewing all fact witnesses (all APD employees and all willing civilian witnesses), and all subject officers.**

**4.7.170 Assessing Compliance with Paragraph 184: Investigations Documented in Writing**

Paragraph 184 stipulates:

**“APD and the Civilian Police Oversight Agency shall investigate all misconduct complaints and document the investigation, its findings, and its conclusions in writing. APD and the Civilian Police Oversight Agency shall develop and implement a policy that specifies those complaints other than misconduct that may be resolved informally or through mediation. Administrative closing or inactivation of a complaint investigation shall be used for the most minor policy violations that do not constitute a pattern of misconduct, duplicate allegations, or allegations that even if true would not constitute misconduct.”**

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**



#### **4.7.171 Assessing Compliance with Paragraph 185: Required Cooperation with IAD/CPOA**

Paragraph 185 stipulates:

**“APD shall require personnel to cooperate with Internal Affairs Division and Civilian Police Oversight Agency investigations, including appearing for an interview when requested by an APD or Civilian Police Oversight Agency investigator and providing all requested documents and evidence under the person’s custody and control. Supervisors shall be notified when a person under their supervision is summoned as part of a misconduct complaint or internal investigation and shall facilitate the person’s appearance, absent extraordinary and documented circumstances.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.172 Assessing Compliance with Paragraph 186: Separate Administrative and Criminal Investigations**

Paragraph 186 stipulates:

**“APD and the City shall develop and implement protocols to ensure that criminal and administrative investigations of APD personnel are kept appropriately separate, to protect APD personnel’s rights under the Fifth Amendment. When an APD employee affirmatively refuses to give a voluntary statement and APD has probable cause to believe the person has committed a crime, APD shall consult with the prosecuting agency (e.g., District Attorney’s Office or USAO) and seek the approval of the Chief before taking a compelled statement.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.173 Assessing Compliance with Paragraph 187: Advisement of Officer Rights**

Paragraph 187 stipulates:

**“Advisements by the Internal Affairs Division or the Civilian Police Oversight Agency to APD personnel of their Fifth Amendment rights shall only be given where there is a reasonable likelihood of a criminal investigation or prosecution of the subject employee.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.174 Assessing Compliance with Paragraph 188: Notification of Criminal Misconduct**

Paragraph 188 stipulates:

**“If at any time during misconduct complaint intake or investigation the investigator determines that there may have been criminal conduct by any APD personnel, the investigator shall immediately notify the Internal Affairs Division commanding officer. If the complaint is being investigated by the Civilian Police Oversight Agency, the investigator shall transfer the administrative investigation to the Internal Affairs Division. The Internal Affairs Division commanding officer shall immediately notify the Chief. The Chief shall consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation. Where an allegation is investigated criminally, the Internal Affairs Division shall continue with the administrative investigation of the allegation. Consistent with Paragraph 186, the Internal Affairs Division may delay or decline to conduct an interview of the subject personnel or other witnesses until completion of the criminal investigation unless, after consultation with the prosecuting agency and the Chief, the Internal Affairs Division deems such interviews appropriate.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.175 Assessing Compliance with Paragraph 189: Provision of Public Safety Statements**

Paragraph 189 stipulates:

**“Nothing in this Agreement or APD policy shall hamper APD personnel’s obligation to provide a public safety statement regarding a work-related incident or activity, including Use of Force Reports and incident reports. APD shall make clear that all statements by personnel in incident reports, arrest reports, Use of Force Reports and similar documents, and statements made in interviews such as those conducted in conjunction with APD’s routine use of force investigation process, are part of each employee’s routine professional duties and are not compelled statements. Where an employee believes that providing a verbal or written statement will be self-incriminating, the employee shall affirmatively state this and shall not be compelled to provide a statement without prior consultation with the prosecuting agency (e.g., District Attorney’s Office or USAO), and approval by the Chief.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.176 Assessing Compliance with Paragraph 190: Considering All Relevant Evidence**

Paragraph 190 stipulates:

**“In each investigation, APD and the Civilian Police Oversight Agency shall consider all relevant evidence, including circumstantial, direct, and physical evidence. There will be no automatic preference for an officer’s statement over a non-officer’s statement, nor will APD or the Civilian Police Oversight Agency disregard a witness’s statement merely because the witness has some connection to the complainant or because of any criminal history. During their investigation, APD and the Civilian Police Oversight Agency shall take into any convictions for crimes of dishonesty of the complainant or any witness. APD and the Civilian Police Oversight Agency shall also take into account the record of any involved officers who have been determined to be deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation. APD and the Civilian Police Oversight Agency shall make efforts to resolve material inconsistencies between witness statements.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**

Operational: **Not In Compliance**

**Recommendations for Paragraph 190:**

**4.7.176a: APD should identify a cadre of investigators at the area commands, who will conduct investigations of minor misconduct and provide additional appropriate training to those individuals relating to internal investigations and CASA requirements.**

**4.7.176b: APD IAPS should require all pertinent and relevant evidence be recovered and considered in all internal affairs investigations. All evidence for internal investigations should be secured in an evidence security facility and/or included in the secured case file.**

**4.7.177 Assessing Compliance with Paragraph 191: 90 Days to Complete Administrative Investigations**

Paragraph 191 stipulates:

**“All administrative investigations conducted by the Internal Affairs Division or the Civilian Police Oversight Agency shall be completed within 90 days of the initiation of the complaint investigation. The 90-day period shall not include time for review. An extension of the investigation of up to 30 days may be granted but only if the request for an extension is in writing and is approved by the Chief. Review and final approval of the investigation, and the determination and imposition of the appropriate discipline, shall be completed within 30 days of the completion of the investigation. To the extent permitted by state and city law, extensions may also be granted in extenuating circumstances, such as military deployments, hospitalizations of the officer, and extended absences.”**

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

**4.7.178 Assessing Compliance with Paragraph 192: Case Dispositions**

Paragraph 192 stipulates:

**“APD or Civilian Police Oversight Agency investigator shall explicitly identify and recommend one of the following dispositions for each allegation of misconduct in an administrative investigation:**

- a) “Unfounded,” where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer;
- b) “Sustained,” where the investigation determines, by a preponderance of the evidence, that the alleged misconduct did occur;
- c) “Not Sustained,” where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred;
- d) “Exonerated,” where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training;
- e) “Sustained violation not based on original complaint,” where the investigation determines, by a preponderance of the evidence, that misconduct did occur that was not alleged in the original complaint but that was discovered during the misconduct investigation; or
- f) “Administratively closed,” where the policy violations are minor, the allegations are duplicative, or investigation cannot be conducted because of the lack of information in the complaint.”

#### **Results.**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.179 Assessing Compliance with Paragraph 193: Reopening Administrative Investigations**

Paragraph 193 stipulates:

“All administratively closed complaints may be re-opened if additional information becomes available. The deadlines contained in Paragraph 191 shall run from when the complaint is re-opened.”

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.180 Assessing Compliance with Paragraph 194: Training and Legal Standards**

Paragraph 194 stipulates:

**“In addition to determining whether APD personnel committed the alleged misconduct, administrative investigations shall assess and document whether the action was in compliance with training and legal standards and whether the incident suggests the need for a change in policy, procedure, or training. In reviewing completed administrative investigations, APD shall also assess and document whether: (a) the incident suggests that APD should revise strategies and tactics; and (b) the incident indicates a need for additional training, counseling, or other non-disciplinary corrective measures. This information shall be shared with the relevant commander(s).”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.181 – 4.7.183 Assessing Compliance with Paragraphs 195-197: Preventing Retaliation**

Paragraphs 195 through 197 of the CASA pertain to the City’s requirement to prevent retaliation against anyone who reports misconduct or cooperates in a misconduct investigation by any employee of the City, including APD members, making it a ground for discipline.

Members of the monitoring team have reviewed both City and APD policies regarding the prohibition of retaliation, and they remain unchanged and appropriate. The monitoring team also selected and reviewed a sample of IA and CPOA cases completed during the 15<sup>th</sup> IMR review period. They also met with members of IAPS and CPOA during the site visit and received updates on the practices of each agency.

Retaliation is prohibited both as a matter of City and APD policy. The Albuquerque Code of Ordinances prohibits retaliation for reporting improper governmental action, and APD policy prohibiting retaliation and making it grounds for discipline is found in SOP (AO 3-41-4-A, GO 1-1-4-E-10 and 11, GO1-4-3-C-2, and GO 1-5-4-B-4).

The monitoring team reviewed a sample of cases assigned to IAPS and CPOA and found no cases in which retaliation was alleged or determined to have occurred during this monitoring period. Based upon data reviewed and observations made by the monitoring team for this reporting period, the City, APD, and CPOA continue to demonstrate compliance for the tasks in paragraphs 195-197.

### **4.7.181 Assessing Compliance with Paragraph 195: Retaliation Prohibited**

Paragraph 195 stipulates:

**“The City shall continue to expressly prohibit all forms of retaliation, including discouragement, intimidation, coercion, or adverse action, against any person who reports misconduct, makes a misconduct complaint, or cooperates with an investigation of misconduct.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.182 Assessing Compliance with Paragraph 196: Review of Anti-Retaliation Statements**

Paragraph 196 stipulates:

**“Within six months of the Operational Date, and annually thereafter, the Internal Affairs Division and the Civilian Police Oversight Agency shall review APD’s anti-retaliation policy and its implementation. This review shall consider the alleged incidents of retaliation that occurred or were investigated during the reporting period, the discipline imposed for retaliation, and supervisors’ performance in addressing and preventing retaliation. Following such review, the City shall modify its policy and practice, as necessary, to protect individuals, including other APD personnel, from retaliation for reporting misconduct.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.183 Assessing Compliance with Paragraph 197: Retaliation Grounds for Discipline**

Paragraph 197 stipulates:

**Retaliation for reporting misconduct or for cooperating with an investigation of misconduct shall be grounds for discipline, up to and including termination of employment.**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**

Operational: **In Compliance****4.7.184 – 4.7.186 Assessing Compliance with Paragraphs 198–200: Staffing and Training Requirements**

Paragraphs 198 through 200 of the CASA require the City to adequately fund and resource internal affairs functions (IAPS and CPOA and the CPOA Board) and require that APD personnel who conduct misconduct investigations and CPOA investigators receive a baseline amount of initial and annual training.

Consistent with past site visits, the monitoring team met with IAPS and CPOA. Their respective offices and physical spaces have remained the same. The monitoring team discussed staffing needs and training, reviewed staffing data and training records, and assessed the timelines of processing complaints and information of potential misconduct in investigations that were randomly selected, and assessed the quality of investigations. The findings related to Paragraphs 198 through 200 indicate the following outcomes related to the requirements of the CASA.

At the present time, IAPS has a commander, a deputy commander, a civilian investigation manager, a civilian intake manager, one lieutenant, one sergeant, one administrative coordinator, and eight investigators (six detectives and two civilian positions) plus one vacant sworn position. This is an increase from the IMR-14 monitoring period. The civilian intake manager oversees the complaint intake function. Despite the fact that IAPS has made strides in improving its processes, as discussed more fully in the Investigations of Complaints section (paragraphs 183-194) of this IMR, it bears repeating that additional staff may still be required to complete thorough investigations in a timely manner, as required by the CASA and Collective Bargaining Agreement. The CASA and the CBA utilize the same timeline (90 days, or 120 days with a 30-day extension approved by the chief). The CASA specifies the investigative timeline begins with "the initiation of the complaint investigation" (paragraph 191), whereas the CBA is silent on when the timeline begins. Compliance with the CBA time constraints directly impacts the APD's ability to impose discipline on sustained charges. Recent Labor Board decisions have put these timelines in flux in a manner that may be disruptive to "good order and discipline" at APD. A new CBA was agreed upon by the Association and the City on December 30, 2021. The new CBA created some concessions on the timeframe of investigations, by agreeing to a total of 120 days to be completed and reviewed, not significantly changing the prior timelines.

These timelines are a given and represent agreement with the timelines by both the APOA and the City, thus IAPS and CPOA must be staffed sufficiently to meet their timeline responsibilities so that CASA and CBA requirements are met, and discipline for sustained charges is not "time-barred." Compliance with the CBA in cases in which discipline is time-barred by the CBA does not absolve the City of its failure to comply with the progressive discipline requirements of CASA<sup>127</sup>.

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<sup>127</sup> After the close of the reporting period, the City approved the budget for additional CPOA investigators.



The CPOA Ordinance and the CASA require that CPOA and the CPOA Board be given staff sufficient to carry out the agency functions contained in the Ordinance. CPOA had a dedicated and independent source of funding equal to, at a minimum,  $\frac{1}{2}$  of 1 percent of the annual APD operational budget. This funding was adequate in the past; however, the  $\frac{1}{2}$  of 1 percent requirement has since been removed. All approved investigative positions have been filled and the CPOA budget and approved positions appear adequate to meet the CPOA mission (as set forth more fully in this IMR in our discussion regarding paragraphs 278 and 279).

As discussed in Paragraphs 271-292, CPOA has filled all seven approved investigative positions, but the acting director is also functioning as the lead investigator. As more fully discussed in paragraphs 271-292 of this report, the monitoring team is concerned that this double-duty interferes with the quality control of the investigative work product. CPOA also has openings for two other approved and funded positions, a Community Engagement Specialist, and a Policy Analyst. As of the preparation of the draft of this report, these positions have not been filled.

As we have pointed out since IMR-8, in regard to paragraph 199 of the CASA, we are satisfied that the training requirement is met for those members of IAPS who conduct investigations involving allegations of other than minor misconduct. Both the 24-hour preliminary, and the 8-hour in-service training address the requirements of this paragraph. However, the paragraph requires annual training of at least 8 hours, not only for IAPS personnel but also for members of the area commands who may be assigned internal affairs investigations to conduct. During this period, a forty-hour course was delivered by the IPTM for those personnel tasked with conducting internal affairs investigations. The course syllabus included instruction in basic IA investigation training, and was attended by all area commanders, as well as some IAPS investigators and some supervisors. The IPTM course specifically covered interviewing subjects of an internal affairs investigation and conducting officer involved shooting investigations. Due to the fact that all interviews of employees in administrative investigations are required/compelled, that course meets the requirement of paragraph 199. The investigation of officer-involved shootings was also covered in that training, which requires a separate criminal investigation, in addition to the administrative investigation. According to the training materials from that course, the investigative standard requires the criminal investigation to be bifurcated from the administrative investigation. This requirement meets the requirement of paragraph 199. Although providing this training to several members is a step forward, the requirements of paragraph 199 require all personnel tasked with completing internal affairs investigations to receive at least eight hours of training annually. Due to the fact that not all members were trained, operational compliance was not met.

APD has a practice of assigning IA investigations to members of an area command, at the rank of sergeant or higher, to conduct investigations alleging minor misconduct against an APD member of the same area command. In the later part of this monitoring period, the IAPS Commander has begun assigning these minor violation cases to area commands other than the one to which the subject member is assigned. A recommendation was made during IMR-14 to assign all CASA-related violations to IAPS.

During this period, IAPS was assigned most CASA-related violations to investigate, with the exception of OBRD violations, which are still being investigated by area commands, as they are classified as Level 6 and Level 7 violations. The predominant OBRD issue is failing to upload recordings by the end of the member's following shift. The violation is usually able to be established by the technical data audit produced by the electronic system. The area commanders have routinely made findings based on the audit logs but have been criticized by the monitoring team for not properly documenting their findings and for not formally interviewing the member to provide them an opportunity to take responsibility or offer an explanation for a given failure.

Since IMR-9, we have put IAPS on notice that an acceptable training policy must be developed for this cadre, or APD risks a finding of "willful indifference" to this task contained within paragraph 199. This training is crucial. As pointed out in the section of this report dealing with the quality of investigations (paragraphs 183-194), the quality of investigations conducted at the area commands continues to be deficient. The cause of this poor quality of internal investigations conducted by area command is directly linked to this lack of effective training and oversight. While conducting the on-site visit during this reporting period, each area commander was interviewed by the monitoring team. All of the six advised that they have received training on properly conducting an administrative investigation. However, all of the area commanders advised they felt the training was not specific enough to teach them how to conduct a proper internal affairs investigation. The APD has developed a specific training program that is currently under final review and is planned to be delivered during IMR-16.

The monitor discusses the scarcity of information and quality of investigations conducted by the area commands more fully in this report's Investigation of Complaints section (paragraphs 183-194). Here, the monitor strongly recommends that IAPS ensure that the investigations conducted by the area commands contain adequate information to determine compliance status with all applicable CASA requirements. Unfortunately, the investigations conducted by area commands continue to display a lack of thoroughness and do not address all related misconduct allegations thoroughly. This is an ongoing issue, and apparently is one that APD prefers not to address. At this point, the monitor and APD are at an impasse on these issues. APD will remain out of compliance until effective remedial action is taken by APD.

We further discuss the CPOA and CPOAB training requirements in the Civilian Police Oversight Agency section (paragraphs 271-292) in this IMR.

#### **4.7.184 Assessing Compliance with Paragraph 198: CPOA Staffing**

Paragraph 198 stipulates:

**"The City shall ensure that APD and the Civilian Police Oversight Agency have a sufficient number of well-trained staff assigned and available to complete and review thorough and timely misconduct investigations in accordance with the requirements of this Agreement. The City shall re-assess the staffing of the Internal**

Affairs Division after the completion of the staffing study to be conducted pursuant to Paragraph 204. The City further shall ensure sufficient resources and equipment to conduct thorough and timely investigations.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.185 Assessing Compliance with Paragraph 199: IA Initial and Annual Training**

Paragraph 199 stipulates:

“All APD personnel conducting misconduct investigations, whether assigned to the Internal Affairs Division, an Area Command, or elsewhere, shall receive at least 24 hours of initial training in conducting misconduct investigations within one year of the Operational Date, and shall receive at least eight hours of training each year. The training shall include instruction on APD’s policies and protocols on taking compelled statements and conducting parallel administrative and criminal investigations.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### ***Recommendations for Paragraphs 199:***

***4.7.185a: Identify the members of the area commands who may be assigned misconduct investigations and develop an annual IA training program for them. Ensure they complete the same on an annual basis. Annual training for those members of the area commands conducting internal affairs investigations of allegations of minor misconduct is an urgent priority.***

***4.7.185b: Do not assign a misconduct investigation to any APD personnel who have not met the annual training requirement.***

***4.7.185c: Investigations involving allegations that are CASA-related should remain with IAPS and not be transferred to area command personnel.***

### **4.7.186 Assessing Compliance with Paragraph 200: CPOA Training**

Paragraph 200 stipulates:

**“Investigators from the Civilian Police Oversight Agency shall receive at least 40 hours of initial training in conducting misconduct investigations within one year of the Operational Date and shall receive at least eight hours of training each year. The training shall include instruction on APD’s policies and protocols on taking compelled statements and conducting parallel administrative and criminal investigations.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.187 – 4.7.188 Assessing Compliance with Paragraphs 201- 202: Discipline and Transparency**

Paragraphs 201-202 require discipline to be fact-based and imposed for sustained violations based on appropriate, articulated consideration of aggravating and mitigating circumstances. These paragraphs also require the use of a disciplinary matrix in imposing discipline and set forth required elements for the disciplinary matrix. Read together; these paragraphs require progressive discipline that is fair, consistent, and commensurate with balancing aggravating and mitigating factors.

During this review period, the monitoring team reviewed a stratified random sample of disciplinary cases in which allegations were sustained and discipline imposed. We also met with the Chief of Police, superintendent of reform, the City Attorney, the CPOA acting executive director, CPOA board members, and the IAPS Commander and reviewed APD and CPOA discipline processes.

As we have commented in past IMRs, marked improvements have been made in the processes of the APD disciplinary system. Some are firmly established and need not be detailed again in this IMR, i.e., the adaptation of the Disciplinary Action Packet (DAP) by both IAPS and CPOA, the updating of retention cards, assigning sanction levels to SOPs, having an IAPS representative attend major disciplinary PDHs, and improved communications and tracking of disciplinary matters. Others, occurring in the IMR 14 period, such as the completion and implementation of the revised disciplinary policy (SOP 3-46) and revised complaint intake policy (SOP 3-41), are improvements that are now just starting to take hold in the APD disciplinary system.

Another development that we described in IMR 14 as a “potential watershed event” for the disciplinary system was the establishment of a new “sworn position” entitled Professional Integrity Commander (PIC). This commander reviews and approves discipline in cases involving minor discipline (Sanction levels 6 or 7), thus eliminating the

divergence of approaches taken by different area commanders. In cases of major discipline, the PIC will review the DAP and IAPS calculations and recommendations contained therein and with the input of the subject officer's chain of command will make final recommendations to the disciplinary authority before a PDH is held. In cases in which the intended discipline involves a suspension of 40 hours or more, the disciplinary authority is the superintendent of reform. The disciplinary authority is a designated deputy chief in cases where the intended discipline is a suspension of 40 hours or less.

This process was functioning effectively, but the superintendent retired at the end of the calendar year 2021. The Deputy Superintendent of Police Reform, who formally heard PDHs and imposed discipline in cases where the proposed discipline was 40 hours or less, now hears PDHs in all major discipline matters, regardless of whether the proposed discipline is less or more than 40 hours. The commander of IAPS is now an acting deputy superintendent and reviews all DAP guideline calculations, chain of command, and PIC recommendations, and proposed discipline before a PDH and gives input as to the appropriate level of discipline. In minor disciplinary cases, if there is a disagreement between the area commander and the PIC on the level of discipline, acting superintendent designates the appropriate discipline.

The above-noted improvements in the process have not yet yielded compliance with progressive discipline, as our review continues to note issues with elements related to the imposition of discipline.

The monitoring team reviewed a stratified random sample of cases completed during the review period. In that review, we identified eight cases in which the proposed discipline was major, [IMR-15-42], [IMR-15-27], [IMR-15-43], [IMR-15-44], [IMR-15-45], [IMR-15-46], [IMR-15-47], and [IMR-15-48], and 11 cases which can be described as minor disciplinary cases, [IMR-15-49], [IMR-15-50], [IMR-15-51], [IMR-15-52], [IMR-15-53], [IMR-15-54], [IMR-15-55], [IMR-15-56], [IMR-15-57], [IMR-15-58], and [IMR-15-59].

Of the eight cases classified as major disciplinary cases, we have identified three cases, [IMR-15-44], and [IMR-15-45], and [IMR-15-46], in which discipline did not comport with the requirements of progressive discipline as outlined in the CASA. This constitutes a 63 percent compliance rate. Of the eleven minor discipline cases reviewed, we have identified three [IMR-15-49], [IMR-15-56], and [IMR-15-57], in which discipline did not comport with the requirements of progressive discipline as outlined in the CASA. This also equals an aggregate compliance rate of 73 percent with the requirements of progressive discipline as embodied in paragraphs 201 and 202. This is a welcomed improvement from the 58 percent compliance rate in IMR-14, still well short of the 95 percent required for operational compliance. The imposition of discipline has improved with the advent of the PIC position, the new PDH hearing, and major and minor disciplinary processes.

[IMR-15-44] involved allegations of failure to call for a K9 unit to clear a commercial building (Sanction Level 7) and a conduct violation (inefficiency, Sanction Level Class 5-6) against a lieutenant and two officers. The officers were exonerated in the investigation, but the lieutenant was sustained on both charges. Three prior Class 6

violations were imposed on the lieutenant within a year of the offense. The pre-disciplinary recommendation letter contained only the lesser failure to utilize the K-9-unit charge due to the chief's reversal of the sustained finding on the code of conduct violation before the PDH. Based on the one remaining violation, an eight-hour suspension was imposed after the PDH on the Class 7 violation with prior offenses that counted for progressive discipline. This discipline was within the matrix for the one remaining charge. The chief wrote an explanation, in sufficient detail, setting forth the reasons for reversing the sustained code of conduct violation. Here, we find the decision to reverse the sustained code of conduct violation to be a "close determination." The decision of the chief to reverse a sustained charge on the code of conduct violation would be more reliable if made after a full vetting of the issues, with IAPS and defense representative participation, and the ability to ask questions of the individual, after – and not before -- a PDH.

[IMR-15-45] involved weapons allegations of making unauthorized alterations to three department-issued firearms – a handgun, less than lethal shotgun, and a rifle, a Sanction Level 5. There were no prior offenses that counted for purposes of progressive discipline, and the applicable range in the matrix was an 8–32-hour suspension. After the PDH, only a non-disciplinary corrective action (NDCA) was imposed. During the PDH, the subject officer was sincere, admitted the mistake, and asserted that the offense occurred because of ignorance of the requirements contained in the regulation. The Chief of Police composed a memorandum that set forth reasons for the departure from the matrix. Although a departure was not inappropriate, a departure to only an NDCA on a Class 5 (8–32-hour range) is not supported by the record in this case.

[IMR-15-46] involved accusations against two officers for failure to notify supervisors of use of force/prisoner injury and against a supervisor for failure to review the use of force incident. The investigation was sustained against both officers, a Class 5, and a finding of "exonerated" was reached against the supervisor sergeant. Neither of the officers had priors that counted for purposes of progressive discipline, and in the DAP, an 8-hour suspension was recommended for both officers. The first officer's PDH was held by the appropriate level disciplinary authority, and after the PDH, a finding of "not sustained" was entered. The statement from that disciplinary authority explaining the reasons for reaching that decision was adequate. The second officer's PDH was held by an area commander, which is inappropriate for violations of a sanction level 1-5. After the PDH, the area commander-imposed discipline of an 8-hour suspension. The second officer appealed the discipline to the superintendent, who acted in an unusual role of an appeals hearing officer and essentially conducted a second PDH. The finding of sustained and the discipline were reversed after the appeal, and no written statement was given explaining the reasons for the reversal. Also, during the appeal hearing, the superintendent acknowledged not reviewing a recording of the incident. In this case, the officer denied the violation and asserted that the recording would show a low-level escort technique and no injury to the detainee; thus, the recording would be highly relevant in any hearing determination. We find the disciplinary process relative to the second officer to be highly deficient. First, PDHs for violations of Class 1 thru 5 should not be held at the area command level. Second, when a recording is highly relevant to a disciplinary decision, it is expected that a disciplinary authority (in this case, an appeal authority) will

review that evidence and not just rely on the interpretation of the recording by IAPS and or the subject officer's defense representative. Lastly, a reversal of a violation that is sustained in an investigation and again sustained after a PDH with discipline imposed, requires a written statement that understandably and transparently sets forth the reasons for reversing the findings and discipline. No such document was provided to the monitoring team by APD.

[IMR-15-49] involved allegations against two officers of failing to handle appropriately a heated conversation between the officers and a mother who arrived to pick up her daughter at a teenage social event where a fight had broken out. The investigation was sustained against one officer for a conduct violation (disrespectful and unprofessional language, Class 7) and a failure to record the entire encounter (Class 6). That officer had prior Class 3 and Class 5 violations that counted for purposes of progressive discipline. The disciplinary range was an 8–32-hour suspension, but the disciplinary authority imposed a written reprimand and a verbal reprimand. The second officer was sustained for the same charges and an additional charge of being late in docking the OBRD recording. That officer had two prior Class 7 violations within the past year of the offenses. The disciplinary matrix range was also an 8–32-hour suspension. A written reprimand was imposed on all three violations. The disciplinary authority wrote reasoned memoranda explaining the departures but failed to consider the prior offenses for disciplinary purposes due to an erroneous interpretation (only the exact same offenses count as prior offenses) of the disciplinary regulation. We find these decisions to be deficient.

[IMR-15-56] involved allegations against two officers for failure to activate their OBRDs for a shots-fired incident. Allegations against both officers were sustained (Class 6). One officer had no prior disciplinary offenses, and an NDCA for level 6 first offense was imposed within the range of the disciplinary matrix. The second officer had a prior for the same offense within timelines, and although the prior offense was noted in the PIC review, the same resolution – an NDCA – was imposed. A review of the CAD, which shows enough time to activate the OBRD and thus diminishes the degree of the cited mitigation (emergency), along with the prior offense, should have resulted in more than an NDCA for a second similar offense for the second officer. We find this decision to be deficient.

[IMR-15-57] involved an allegation against an officer for failing to keep proper sight of a prisoner in a hospital, a Class 7 violation. The officer had two prior conduct-related violations within time limits. The recommendation of the chain of command reflected an interpretation that both prior offenses were out of time limits and thus a disciplinary recommendation for verbal reprimand. The PIC review reflected an interpretation that both prior offenses were within time limits (one year) for the level of prior offenses (Class 7 offenses). The disciplinary matrix shows a range of written reprimands to a 16-hour suspension, with a presumptive 8-hour suspension. A written reprimand was imposed, and mitigating circumstances were properly cited. However, the mitigating circumstances were not balanced against the aggravating circumstances – that the supervision of the detainee was so deficient the prisoner slipped out of her handcuffs, left the hospital room, escaped the hospital, and an immediate search did not locate her. An

additional factor that would have been relevant to a disciplinary analysis is how long and what effort did it take to locate and take into custody the escaped detainee. This discipline may have been appropriate if a fuller balancing of the aggravating v. mitigating factors had occurred, but without the entire balancing, our opinion is that the disciplinary process decision-making is deficient.

Although there may be pending investigations in which the timeliness of an investigation could raise issues of whether discipline is “time-barred,” it is important to highlight again that in this period, our review of the random sample of cases revealed no cases completed during the IMR-15 period in which discipline was not imposed on sustained charges due to untimely investigations. It is also important to note that there were no instances of discipline being barred due to untimely “command review” process (review of sustained charges by the subject officer’s chain of command with recommendations to the disciplinary authority and issuance of Notice of Intent to Discipline letter within the requisite period). This is directly attributable to IAPS case tracking and supervisory review, as well as the timely work of the individuals conducting the investigations. However, APD reported, in IMR-14, a backlog of use of force cases (in excess of 600), which depending on case-specific issues, could raise challenges of “time-barred for discipline.”

It bears repeating that compliance with the CBA in not imposing discipline that is “time-barred” does not excuse APD’s failure to meet the requirements of paragraphs 201 and 202 of the CASA to impose appropriate discipline on sustained charges. The CASA requires APD and CPOA to be staffed sufficiently to meet their investigative responsibilities in a timely manner, operate efficiently, and bring sustained charges to the command review process in time for the review process to run its normal course.

#### **4.7.187 Assessing Compliance with Paragraph 201: Fact Based Discipline**

Paragraph 201 stipulates:

**“APD shall ensure that discipline for sustained allegations of misconduct is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are set out and applied consistently.”**

#### **Results**

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **Not In Compliance**

#### ***Recommendations for Paragraph 201:***

***4.7.187a: Ensure that all disciplinary decisions address the range of the disciplinary matrix unless written reasons for departure from the matrix range accompany the decision.***



**4.7.187b: Ensure that adequate explanation is given for selecting a classification level where there is more than one level of classification associated with a regulation for which a sustained finding is made.**

**4.7.187c: All investigations involving sustained charges where discipline cannot be imposed due to violations of time constraints should be reported quarterly to the chief, the City Attorney, DOJ, and the monitor.**

**4.7.187d: APD should continue to ensure that all PDHs are recorded and preserved as part of the investigative file.**

**4.7.187e: IAPS and CPOA should continue to determine if any prior violations count as prior offenses for all investigations requiring review of sustained charges by the appropriate Area Command, the Professional Integrity Commander, and/or the Disciplinary Authority.**

**4.7.187f: To accurately calculate whether prior offenses come within the time periods specified in the disciplinary regulation, it is important that the date of imposition of prior discipline and the date of the conduct under review in the current case be readily discernible. We continue to recommend that the date discipline was imposed be clearly entered on the retention cards. We further recommend that the date of conduct under review be clearly set forth in the recommended findings and conclusions section of investigative reports, that is, entering an "on or about" date for the conduct referenced in each specification.**

#### **4.7.188 Assessing Compliance with Paragraph 202: Discipline Matrix**

Paragraph 202 stipulates:

**"APD shall establish a disciplinary matrix that:**

- a) establishes a presumptive range of discipline for each type of rule violation;**
- b) increases the presumptive discipline based on an officer's prior violations of the same or other rules;**
- c) sets out defined mitigating or aggravating factors;**
- d) requires that any departure from the presumptive range of discipline must be justified in writing;**
- e) provides that APD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline;**
- and**
- f) provides that APD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed."**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

***Recommendations for Paragraph 202:***

***4.7.188a: Ensure that all disciplinary decisions either conform to the presumptive range included in APD’s revised disciplinary matrix or that written explanations accompany them for the departure from the recommendations of the disciplinary matrix.***

***4.7.188b: Ensure that all disciplinary decisions related to actions (or inactions) that are reasonably on the “critical path” regarding compliance with the CASA reflect a resolve to foster behaviors required by the CASA.***

***4.7.188c: Ensure that all disciplinary packets, including the investigative report, are complete and self-explanatory, including documentation that all steps in the investigation and disciplinary processes were completed as required by policy.***

***4.7.188d: Ensure an accurate and exact calculation of prior offenses to calculate the presumptive range of the disciplinary matrix.***

**4.7.189 Assessing Compliance with Paragraph 203**

Paragraph 203 stipulates:

**“To maintain high-level, quality service; to ensure officer safety and accountability; and to promote constitutional, effective policing, the City shall ensure that APD has the staffing necessary to implement the terms of this Agreement. APD shall also deploy a sufficient number of first-line supervisors to respond to scenes of uses of force; investigate thoroughly each use of force to identify, correct, and prevent misconduct; and provide close and effective supervision necessary for officers to improve and develop professionally. APD shall revise and implement policies for supervision that set out clear requirements for supervision and comport with best practices.”**

**Results**

APD recently completed a manpower staffing analysis, conducted by the Alexander Weiss Group. The study developed specific recommendations for staffing at APD. Obviously, staffing levels have a direct and tangible impact on APD’s ability to field adequate numbers of first-line supervisory personnel. Based on the quality of many of the use of force investigations by supervisory personnel we have reviewed this reporting period, many supervisory investigations of use of force are not thoroughly investigated.

In addition, this monitor's report continues to note and document problematic characteristics in APD's supervisory review of in-field uses of force. The most recent Weiss staffing provides specific guidance to APD regarding staffing.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not in Compliance**

***Recommendations for Paragraph 203:***

***4.7.189a: APD should move to implement the recommendations of the latest Weiss study to the extent that current funding levels allow.***

**4.7.190 Assessing Compliance with Paragraph 204: Comprehensive Staffing Study**

Paragraph 204 requires:

**“In order to successfully implement the provisions of this Agreement, APD shall assess the appropriate number of sworn and civilian personnel to perform the different Department functions necessary to fulfill its mission. APD therefore shall conduct a comprehensive staffing assessment and resource study. The study shall be the predicate for determining appropriate staffing and resource levels that are consistent with community-oriented policing principles and support the systematic use of partnerships and problem-solving techniques. The study shall also consider the distribution of officers to patrol functions as opposed to specialized units, as well as the distribution of officers with less than three years of experience across shifts and Area Commands. This staffing assessment and resource study shall be completed within one year of the Operational Date. Within six months of the completion of the staffing assessment and resource study, the Parties shall assess its results and jointly develop a staffing plan to ensure that APD can meet its obligations under this Agreement.”**

**Methodology**

During this reporting period, APD has contracted with Alexander Weiss and Associates to conduct a second “staffing assessment.” The monitor asked for and was provided a copy of the most recent Weiss staffing assessment.

The results of that process were reflected in a more recent staffing assessment document that considered data relevant to determining necessary staffing levels for APD. Based on the second Weiss report, APD is in operational compliance with the requirements of this paragraph.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.191 – 4.7.194 Assessing Compliance with Paragraphs 205- 208: Supervision and Related Paragraphs**

The monitoring team reviewed and examined the data submitted by APD to assess its compliance with paragraphs 205 through 208 for this reporting period (August 1, 2021 through January 31, 2022). These paragraphs address supervision requirements for first-line supervisors, the required span of control and levels of supervision, and close supervision by the lieutenants and commanders. The monitoring team conducted thorough reviews of randomly selected use of force cases and comments extensively on its findings in paragraphs 41-49 and 86-88 of this report.

During this reporting period, the monitoring team reviewed monthly inspection reports for Field Services Bureau Area Commands and investigative and specialized units. The reports consist of, but are not limited to, the following:

- Detailed scorecards on a monthly basis containing the teams or units being monitored, the topic on which each team or unit is measured, and the compliance percentage attained;
- Detailed Scorecards by Topics (ECW, OBRD/Firearms/ Supervision/ 72-hour extension/ Inspection Summary/ Citizen Complaint Forms);
- Detailed Scorecard sample size (number per team/unit and number per topic); and
- Detailed Explanation of Scorecards and rebuttals.

The monitoring team notes continual improvement in compliance with respect to monthly activity reports, monthly check-off lists, monthly line inspections, monthly video inspections, and firearms.

Additional material reviewed by the monitoring team included:

- Random line-up reports for area commands (verification of the 8:1 supervision ratio);
- Random CAD entry reports for Area Commands so that the monitoring team can verify clearly identifiable first-line supervisors or acting first-line supervisors. An "A" is used to log on to CAD to signify to all officers clearly who the supervisor is for the shift;
- Supervision Scorecards Status reports; and
- Random Sergeant CAD entry reports for Area Command.

The quality of assessments of use of force by APD supervisors that is required by Section IV of the CASA continues to be of serious concern to the monitoring team. APD prioritized its training during this monitoring period to meet the requirements of the CASA, and the monitoring team will reassess these areas during the next reporting period, once APD personnel have received and completed Tier I through Tier IV and PEMS training.

The progress made by APD in these areas is a positive sign that the department is moving in the right direction. During future reporting periods, the monitoring team will continue to review audits and actions taken to reduce repetitive oversight errors. This is a critical issue, and until it is resolved by APD, operational compliance will be difficult to attain and manage (see paragraphs 41-59 of this report, which focus on the use, reporting, supervision, and investigations of use of force events).

#### **4.7.191 Assessing Compliance with Paragraph 205**

Paragraph 205 stipulates:

**“First-line supervisors shall investigate officers’ use-of-force as described in Section IV of this Agreement, ensure that officers are working actively to engage the community and increase public trust and safety, review each arrest report, and perform all other duties as assigned and as described in departmental policy.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### **4.7.192 Assessing Compliance with Paragraph 206**

Paragraph 206 stipulates:

**“All field officers shall be assigned to a primary, clearly identified first-line supervisor and shall also report to any other first-line supervisor within the chain of command. First-line supervisors shall be responsible for closely and consistently supervising all officers under their primary command. Supervisors shall also be responsible for supervising all officers under their chain of command on any shift to which they are assigned to ensure accountability across the Department.”**

#### **Results**

Primary: **In Compliance**

Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### **4.7.193 Assessing Compliance with Paragraph 207**

Paragraph 207 stipulates:

**“First-line supervisors shall ordinarily be assigned as a primary supervisor to no more than eight officers. Task complexity will also play a significant role in determining the span of control and whether an increase in the level of supervision is necessary.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.194 Assessing Compliance with Paragraph 208**

Paragraph 208 stipulates:

**“APD Commanders and lieutenants shall be responsible for close and effective supervision of officers under their command. APD Commanders and lieutenants shall ensure that all officers under their direct command comply with APD policy, federal, state and municipal law, and the requirements of this Agreement.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### ***Recommendations for Paragraphs 205, 206, 208:***

***44.7.194a: APD should consider conducting an omnibus review of the supervisory paragraphs of the last six monitor’s reports, identifying specific critical lapses in APD supervisory process, and convene a supervisory process improvement team (PIT) to identify goals, objectives, timelines, process, and measures of effectiveness for the training and management oversight of supervisors who deal with uses of force in the field.***

***44.7.194b: Using the data evidence from step a above, the PIT’s recommendations should be carefully reviewed by the Chief of Police, planning personnel, and training personnel, in order to craft goals and quantifiable objectives to improve supervisory processes at APD. The team should review past monitor’s reports for***

***recommendations, assess those recommendations for potential efficacy and develop a final process improvement plan for supervision at APD.***

***44.7.194c: The Chief of Police should consider the PIT's recommendations and should implement those aspects of the PIT's recommendations that he deems appropriate.***

#### **4.7.195 - 4.7.197 Assessing Compliance with Paragraphs 209 - 211: Review of Sergeants' Training**

Paragraphs 209 through 210 address various supervisory training requirements with which APD must attain compliance. Specifically, paragraph 209 requires that "Every sergeant shall receive 40 hours of mandatory supervisory, management, leadership, and command accountability training before assuming supervisory responsibilities."

For this reporting period the monitoring team reviewed the following data and source documents:

- November 2021 One-Hundred-hour Mandatory Supervision course SO 21-135 Dates (November 2, 2021 through November 16, 2021);
- November 2021 One-Hundred-hour Mandatory Supervision course SO 21-145 Dates (November 29, 2021 through December 13, 2021);
- Reality-Based Training (RBT) training material;
- Student Evaluation for One-Hundred-hour course;
- Critiques for One-Hundred-hour course;
- Rosters for One-Hundred-hour course;
- Test Results; and
- Certificates.

During this reporting period, the First Line Supervision Training was changed from an eighty-hour course to a one-hundred-hour course (Interoffice Memorandum dated October 18, 2021). The Performance Evaluation and Management System (PEMS) supervisory class was added, ensuring all required contents of both programs were delivered.

The requirements for paragraph 210 are interwoven throughout the one-hundred-hour course, and include the following:

- Techniques for effectively guiding and directing officers and promoting effective and ethical police practices;
- De-escalating conflict;
- Evaluating written reports;
- Investigating Uses of Force;
- Understanding supervisory tools: Early Intervention systems (EIS) and On-Body Recording Device (OBRD) systems;

- Investigating officer misconduct;
- Officer performance;
- Disciplinary sanctions and non-punitive corrective action;
- Building community partnerships; and
- Legal updates.

Data requested and received by the monitoring team indicate that the requirements have been addressed by APD in the supervisory course delivered during this reporting period.

APD also delivered training related to two departmental initiatives during this reporting period:

- Department Special Order SO 21-144 was supported by training processes that dealt with supervisory and management oversight training and consisted of a four-hour training block that included topics related to “credible leadership.”
- Department Special Order SO 21-97 addressed APD’s Performance Evaluation and Management System (PEMS) during a 30-hour training block.

As noted in previous IMRs, measuring the full impact of training recently delivered and currently being delivered by APD is not feasible during this reporting period, given the dates the initial training was first implemented.

#### **4.7.195 Assessing Compliance with Paragraph 209**

Paragraph 209 stipulates:

**“Sergeant training is critical to effective first-line supervision. Every sergeant shall receive 40 hours of mandatory supervisory, management, leadership, and command accountability training before assuming supervisory responsibilities.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.196 Assessing Compliance with Paragraph 210**

Paragraph 210 stipulates:

**“APD’s sergeant training program shall include the following topics:**



- a) techniques for effectively guiding and directing officers and promoting effective and ethical police practices;
- b) de-escalating conflict;
- c) evaluating written reports, including those that contain canned language;
- d) investigating officer uses of force;
- e) understanding supervisory tools such as the Early Intervention System and on-body recording systems;
- f) responding to and investigating allegations of officer misconduct;
- g) evaluating officer performance;
- h) consistent disciplinary sanction and non-punitive corrective action;
- i) monitoring use-of-force to ensure consistency with policies;
- j) building community partnerships and guiding officers on this requirement;
- k) legal updates.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.197 Assessing Compliance with Paragraph 211

Paragraph 211 stipulates:

“All sworn supervisors shall also receive a minimum of 32 hours of in-service management training, which may include updates and lessons learned related to the topics covered in the sergeant training and other areas covered by this Agreement.”

## Results

Training required to reach secondary compliance was not approved until late in this reporting period and is scheduled for completion by the end of the next reporting period. At that time, the monitoring team will review documentation provided by APD to determine if compliance is attained.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.198-4.7.205 Assessing Compliance with Paragraphs 212-219 EIS/EIRS/PMEDS

During this monitoring period, the latest version of the Performance Evaluation and Management System (PEMS) policy (3-33) was approved by the monitor and DOJ. In addition, with the understanding that the curriculum for supervisors would be updated to reflect the approved policy, APD's proposed supervisory training was also approved. Training for the APD supervisors began on August 16, 2021, and continued through the end of the year. In 2021, APD had 321 sworn and acting supervisors. A course of business document showed that 96.7 percent of active sworn supervisors attended the training (300 of 310). There were eleven individuals who were out on various types of leave (Military, FMLA, etc.) who are scheduled to be trained as they return to duty. During the area command site conducted for this reporting period, the monitoring team found that five of the six sergeants had already attended the training, with one scheduled for attendance the following week. All spoke well of the training materials presented.

The training consisted of a series of 3-day sessions, with the first session delivered to a group of command staff members as recommended by the monitoring team. During the monitoring team's November 2021 visit, members of the team attended several different sections of the classroom presentations. Classes were well presented using various formats, and we observed excellent interaction among the participants. A review of a sample of final work product indicated that the supervisors were well versed in the materials presented. Supervisors documented the mock workplace failures that were presented to them and had reasonable and appropriate suggestions for remediation of the issues.

As approved, the policy, curriculum, and plans to move forward with a system that can meet or exceed CASA requirements have been established. As we have long recommended, PEMS is proposed to be a data-driven system with thresholds supported by data analysis and research, using standard deviations to establish thresholds (as we have long-recommended) rather than arbitrarily assigned numbers of incidents. Still in question is the methodology of comparing an individual's use of force to APD's calls for service data rather than the individual's arrest data. APD has the monitor's preliminary approval to test their proposed method.

While approved policy guidance exists, it is highly probable that policies will need to change when new systems are developed. APD is working with Benchmark Analytics to develop the automated system. Weekly Zoom meetings are held with the various development teams from both Benchmark and APD, with members of the DOJ and the monitoring team also involved. Common systems development issues such as data retrieval, data transfer, systems integration, organizational structure, and officer identification have been identified and are in the process of resolution. Nonetheless, APD remains in primary compliance, as existing policies have been promulgated and approved. Secondary compliance has been obtained with the conclusion of the PEMS supervisory training.

#### **4.7.198 Assessing Compliance with Paragraph 212**

Paragraph 212 stipulates:

**“Within nine months of the Operational Date, APD shall revise and update its Early Intervention System to enhance its effectiveness as a management tool that promotes supervisory awareness and proactive identification of both potentially problematic as well as commendable behavior among officers. APD supervisors shall be trained to proficiency in the interpretation of Early Intervention System data and the range of non-punitive corrective action to modify behavior and improve performance; manage risk and liability; and address underlying stressors to promote officer well-being.”**

## **Results**

With the completion of the approved PEMS supervisory training for all active sworn supervisors, the requirements for secondary compliance relating to Paragraph 212 have been met. What remains to be done is to field the EIS system and begin its routine implementation as an evaluation and “early warning” system

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### **4.7.199 Assessing Compliance with Paragraph 213**

Paragraph 213 stipulates:

**“APD shall review and adjust, where appropriate, the threshold levels for each Early Identification System indicator to allow for peer-group comparisons between officers with similar assignments and duties.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### **4.7.200 Assessing Compliance Paragraph 214**

Paragraph 214 stipulates:

**“APD shall implement rolling thresholds so that an officer who has received an intervention of use of force should not be permitted to engage in additional uses of force before again triggering a review.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### **4.7.201 Assessing Compliance Paragraph 215**

Paragraph 215 stipulates:

“The Early Intervention System shall be a component of an integrated employee management system and shall include a computerized relational database, which shall be used to collect, maintain, integrate, and retrieve data department-wide and for each officer regarding, at a minimum:

- a) uses of force;
- b) injuries and deaths to persons in custody;
- c) failures to record incidents with on-body recording systems that are required to be recorded under APD policy, whether or not corrective action was taken, and cited violations of the APD’s on-body recording policy;
- d) all civilian or administrative complaints and their dispositions;
- e) all judicial proceedings where an officer is the subject of a protective or restraining order;
- f) all vehicle pursuits and traffic collisions involving APD equipment;
- g) all instances in which APD is informed by a prosecuting authority that a declination to prosecute any crime occurred, in whole or in part, because the officer failed to activate his or her on-body recording system;
- h) all disciplinary action taken against employees;
- i) all non-punitive corrective action required of employees;
- j) all awards and commendations received by employees, including those received from civilians, as well as special acts performed by employees;
- k) demographic category for each civilian involved in a use of force or search and seizure incident sufficient to assess bias;
- l) all criminal proceedings initiated against an officer, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the City and/or its officers or agents, allegedly resulting from APD operations or the actions of APD personnel; and
- m) all offense reports in which an officer is a suspect or offender.”

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### **4.7.202 Assessing Compliance Paragraph 216**

Paragraph 216 stipulates:

**“APD shall develop and implement a protocol for using the updated Early Intervention System and information obtained from it. The protocol for using the Early Intervention System shall address data storage, data retrieval, reporting, data analysis, pattern identification, supervisory use, supervisory/departmental intervention, documentation and audits, access to the system, and confidentiality of personally identifiable information. The protocol shall also require unit supervisors to periodically review Early Intervention System data for officers under their command.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### **4.7.203 Assessing Compliance Paragraph 217**

Paragraph 217 stipulates:

**“APD shall maintain all personally identifying information about an officer included in the Early Intervention System for at least five years following the officer’s separation from the agency except where prohibited by law. Information necessary for aggregate statistical analysis will be maintained indefinitely in the Early Intervention System. On an ongoing basis, APD will enter information into the Early Intervention System in a timely, accurate, and complete manner and shall maintain the data in a secure and confidential manner.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### **4.7.204 Assessing Compliance Paragraph 218**

Paragraph 218 stipulates:

**“APD shall provide in-service training to all employees, including officers, supervisors, and commanders,**

regarding the updated Early Intervention System protocols within six months of the system improvements specified in Paragraphs 212-215 to ensure proper understanding and use of the system. APD supervisors shall be trained to use the Early Intervention System as designed and to help improve the performance of officers under their command. Commanders and supervisors shall be trained in evaluating and making appropriate comparisons in order to identify any significant individual or group patterns of behavior.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### 4.7.205 Assessing Compliance Paragraph 219

Paragraph 219 stipulates:

“Following the initial implementation of the updated Early Intervention System, and as experience and the availability of new technology may warrant, the City may add, subtract, or modify thresholds, data tables and fields; modify the list of documents scanned or electronically attached; and add, subtract, or modify standardized reports and queries as appropriate. The Parties shall jointly review all proposals that limit the functions of the Early Intervention System that are required by this Agreement before such proposals are implemented to ensure they continue to comply with the intent of this Agreement.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### ***Recommendations for Paragraph 212 - 219:***

***4.7.198-205a: Design, document, and implement audit protocols for supervisory review and reporting of PEMS processes.***

### **4.7.206 – 4.7.217 Assessing Compliance with Paragraphs 220-231**

During the monitoring period for IMR-15 (August 1, 2021-January 31, 2022), APD’s PMU has continued to actively audit area commands for OBRD-related activities and has

extended the auditing to various Investigations Units. The findings so far yielded enough information to conclude that great strides have been made concerning APD's execution and training related to their OBRD requirements. APD's internal audit processes during this period showed an overall compliance rate of 95 percent or higher in all six area commands with respect to OBRD requirements. (The monitoring team visited all area commands during IMR-15 and will focus the next site visit on the various Investigative units).

The monitoring team did identify a factor that would likely impact the wider reliability of OBRD mandatory recording data. When PMU conducts an audit under Paragraph 224 for the mandatory recording of an event, they focus their review on the officer listed as the primary officer for the call. They also assess whether or not an OBRD exists for an event that requires OBRD recording and not whether the entire incident was captured. Therefore, if multiple officers arrive on scene and all have a reason to mandatorily record an event, the PMU audit scores the incident as compliant based on only the primary officer and only on whether any OBRD exists. Other officers on scene are generally not contemplated in the assessment. Further discussions revealed that PMU was aware of this, was working to capture the additional requirement to record, and needed to reconcile data and systems (CAD and Evidence.com) to achieve the desired results. The monitoring team will follow up on progress during the next site visit.

The actual takeaway from these processes is positive. APD has matured in management oversight of critical processes and has begun addressing known problems without first querying the monitoring team for assistance. This is the type of indicator of self-reliance that will lead, eventually, to full compliance. The final step in this process, internalizing lessons learned while the monitoring team is engaged almost daily with APD, will begin in earnest with the release of the internal audit of OBRD activity and APD's response to the release of that internal audit. This will be an important test of APD's ability to self-manage.

During this monitoring period, an individual commander has been assigned to review all cases of discipline and to make a final disciplinary recommendation. This process differs from prior practices in that now a single appointee makes the final decision regarding imposing discipline or other corrective actions. In the past, an officer's individual commander would make disciplinary determinations. The goal of this change is to create a more consistent and fair disciplinary process removed from supervisory biases.

The monitoring team, in prior reports, expressed concern for accountability and APD's response to the OBRD policy requirements violations. During this reporting period, 137 Internal Affairs Requests were initiated with 155 potential violations (97 closed) for allegations specific to SOP 2-8 On-Body Recording. The findings of the closed cases are as follows:

Sustained: 72  
Not Sustained: 1  
Unfounded: 5  
Exonerated: 11

Administratively Closed: 3  
Investigation Opened by Mistake 5

Sustained Findings/Actions/Discipline:

Administratively Closed-Non-Disciplinary Corrective Action: 28  
Verbal Reprimand: 9  
Letter of Reprimand: 31  
Suspension: 4

Three officers were found to have two or more sustained OBRD violations during this reporting period. Overall, we note that OBRD policy requirements are critical elements of CASA compliance, as OBRD usage is a critical tool for assessing officer actions in the field. As such, it requires serious oversight by command staff who should hold first-line supervisors accountable for ensuring policy adherence.

Members of the monitoring team visited all six area commands during the November 2021 site visit. All supervisors were able to explain the updated policy requirements, were fluent in using the various supervisory systems, and demonstrated that they had completed the required video reviews. Two sergeants stated that they select their videos for review from Evidence.com rather than the required CAD system. One supervisor discovered one violation of the OBRD policy (failure to upload) and referred the officer to Internal Affairs. No other issues other than a power failure were reported regarding OBRD's. APD's internal audits and the monitoring team's assessments are similar, indicating the reliability and validity of APD's internal audit functions, aside from the one disparity mentioned above regarding the capture of data from all officers involved rather than simply the reporting officer.

The monitoring team views well-trained and engaged supervisors as the lynchpin to making this entire process function properly. While more appropriate action has begun, much improvement is still required. Internal Affairs is working to standardize the process for review of cases returned to the area command for investigation, including training for the first-line supervisors in investigating cases, with the intended results being a more appropriate and consistent response to policy violations. Training and supervising the line supervisors in this area is critical for increasing compliance levels.

#### **4.7.206 Assessing Compliance Paragraph 220**

Paragraph 220 stipulates:

**“To maintain high-level, quality service; to ensure officer safety and accountability; and to promote constitutional, effective policing, APD is committed to the consistent and effective use of on-body recording systems. Within six months of the Operational Date, APD agrees to revise and update its policies and procedures regarding on-body recording systems to require:**



- a) specific and clear guidance when on-body recording systems are used, including who will be assigned to wear the cameras and where on the body the cameras are authorized to be placed;
- b) officers to ensure that their on-body recording systems are working properly during police action;
- c) officers to notify their supervisors when they learn that their on-body recording systems are not functioning;
- d) officers are required to inform arrestees when they are recording, unless doing so would be unsafe, impractical, or impossible;
- e) activation of on-body recording systems before all encounters with individuals who are the subject of a stop based on reasonable suspicion or probable cause, arrest, or vehicle search, as well as police action involving subjects known to have mental illness;
- f) supervisors to review recordings of all officers listed in any misconduct complaints made directly to the supervisor or APD report regarding any incident involving injuries to an officer, uses of force, or foot pursuits;
- g) supervisors to review recordings regularly and to incorporate the knowledge gained from this review into their ongoing evaluation and supervision of officers; and
- h) APD to retain and preserve non-evidentiary recordings for at least 60 days and consistent with state disclosure laws, and evidentiary recordings for at least one year, or, if a case remains in investigation or litigation, until the case is resolved.”

## Results

APD has developed a compliant policy for OBRD operation and has trained all appropriate personnel in the operation of OBRD units concerning those policies. During the 12th reporting period, APD showed great improvement in supervision and review by first-line supervisors and command cohorts, which continued through IMR-15. However, the important information is that these audits were conducted internally by APD, not externally by the monitor. Operational compliance will require demonstrable and effective internal responses to the issues noted by these internal (to APD) findings. We note, parenthetically, that we have engaged in several “oversight” conversations with APD’s Oversight Division relative to their internal audit processes. During those conversations, we provided insight, feedback, and coaching. Based on our review of APD’s work this reporting period, most of our advice has been operationalized and documented in COD’s work during this reporting period related to internal auditing and reporting. Those changes, it appears, have not yet been implemented in the field.

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

### 4.7.207 Assessing Compliance with Paragraph 221

Paragraph 221 stipulates:

**“APD shall submit all new or revised on-body recording system policies and procedures to the Monitor and DOJ for review, comment, and approval prior to publication and implementation. Upon approval by the Monitor and DOJ, policies shall be implemented within two months.”**

## **Results**

Policies responsive to paragraph 221 have been developed and trained. Supervisors have begun to document OBRD equipment failures, failures to upload required recordings, and failures to record. These failures are beginning to be referred to Internal Affairs. Internal Affairs outlined a plan to standardize the review process when cases are returned to the line supervisor for an investigation, including training for the supervisors to review cases properly. A commander has been assigned to make the final disposition regarding cases returned from area commands to obtain a more appropriate and consistent response to policy violations. Evidence of this will be crucial for continued compliance.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.208 Assessing Compliance with Paragraph 222**

Paragraph 222 stipulates:

**“The Parties recognize that training regarding on-body recording systems is necessary and critical. APD shall develop and provide training regarding on-body recording systems for all patrol officers, supervisors, and command staff. APD will develop a training curriculum, with input from the Monitor and DOJ that relies on national guidelines, standards, and best practices.”**

## **Results**

Compliance has been met under the specific requirements of this paragraph. Monitor-approved supervisory training for OBRD operations in the field was initiated at the end of the IMR-14 monitoring period.

Internal Affairs received 130 referrals related to OBRD policy violations and closed 97 cases during the period for IMR-15. 72 were sustained, and four violations resulted in a suspension recommendation. Members of the monitoring team will continue to spend significant time reviewing internal affairs files to determine if the actions taken because of OBRD policy violations were appropriate. A standardized process for case investigation,

when referred to the line supervisor, is in the planning/approval stages. The process is designed to assist in obtaining consistent and appropriate responses to policy violations. Final disposition will no longer come from the area command but from a commander in Internal Affairs.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.209 Assessing Compliance with Paragraph 223**

Paragraph 223 stipulates:

**“APD agrees to develop and implement a schedule for testing on-body recording systems to confirm that they are in proper working order. Officers shall be responsible for ensuring that on-body recording systems assigned to them are functioning properly at the beginning and end of each shift according to the guidance of their system’s manufacturer and shall report immediately any improperly functioning equipment to a supervisor.”**

#### **Results**

The monitoring team has reviewed the latest supervisors' monthly line inspection forms submitted online and assessed the OBRD-related queries. During interviews with the monitoring team, supervisors reported no equipment failures during this monitoring period, other than a single power outage. APD supervisors are beginning to properly document equipment checks at an acceptable level. During the site visit, only one area command sergeant reported finding a failure to upload, and this resulted in a referral to Internal Affairs. Effective supervision, documentation of behaviors, and application of appropriate discipline to sustained policy violations were key to elevation in compliance rates. The requirements of this paragraph have been accurately and satisfactorily documented by line supervisors.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.210 Assessing Compliance with Paragraph 224**

Paragraph 224 stipulates:

**“Supervisors shall be responsible for ensuring that officers under their command use on-body recording systems as required by APD policy. Supervisors shall report equipment problems and seek to have equipment**

repaired as needed. Supervisors shall refer for investigation any officer who intentionally fails to activate his or her on-body recording system before incidents required to be recorded by APD policy.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### ***Recommendations for Paragraph 224:***

***4.7.209-210a: Identify all supervisors who have substandard performance regarding OBRD activation and review and assess the reasons for failure to enforce established process. Place these supervisors “on notice” that their performance on this task will be routinely reviewed, and continued failures will result in discipline.***

***4.7.209-210b: Follow up on these counseling sessions with discipline if necessary.***

### **4.7.211 Assessing Compliance with Paragraph 225**

Paragraph 225 stipulates:

“At least on a monthly basis, APD shall review on-body recording system videos to ensure that the equipment is operating properly and that officers are using the systems appropriately and in accordance with APD policy and to identify areas in which additional training or guidance is needed.”

## Results

During the November 2021 site visit to various area commands, APD supervisors demonstrated that they understand the policy regarding video reviews and have documented that they have conducted these reviews. These reviews demonstrate whether the officer is acting within policy and that the equipment was in working order. Lieutenants have begun reviewing one video per squad and commanders review one video per shift per month. The policy regarding the supervisory review process has not been trained as of the close of the 15<sup>th</sup> reporting period.

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.212 Assessing Compliance with Paragraph 226**

Paragraph 226 stipulates:

**“APD policies shall comply with all existing laws and regulations, including those governing evidence collection and retention, public disclosure of information, and consent.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.213 Assessing Compliance with Paragraph 227**

Paragraph 227 stipulates:

**“APD shall ensure that on-body recording system videos are properly categorized and accessible. On-body recording system videos shall be classified according to the kind of incident or event captured in the footage.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.214 Assessing Compliance with Paragraph 228**

Paragraph 228 stipulates:

**“Officers who wear on-body recording systems shall be required to articulate on camera or provide in writing their reasoning if they fail to record an activity that is required by APD policy to be recorded. Intentional or otherwise unjustified failure to activate an on-body recording system when required by APD policy shall subject the officer to discipline.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

***Recommendations for Paragraph 228:***

**4.7.209-210a: APD should continue to document, assess, improve, and implement its OBRD policy supervisory processes until error rates fall below five percent.**

#### **4.7.215 Assessing Compliance with Paragraph 229**

Paragraph 229 stipulates:

**“APD shall ensure that on-body recording systems are only used in conjunction with official law enforcement duties. On-body recording systems shall not be used to record encounters with known undercover officers or confidential informants; when officers are engaged in personal activities; when officers are having conversations with other Department personnel that involve case strategy or tactics; and in any location where individuals have a reasonable expectation of privacy (e.g., restroom or locker room).”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.216 Assessing Compliance with Paragraph 230**

Paragraph 230 stipulates:

**“APD shall ensure that all on-body recording system recordings are properly stored by the end of each officer’s subsequent shift. All images and sounds recorded by on-body recording systems are the exclusive property of APD.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.217 Assessing Compliance with Paragraph 231**

Paragraph 231 stipulates:

**“The Parties are committed to the effective use of on-body recording systems and to utilizing best practices. APD currently deploys several different platforms for on-body recording systems that have a range of technological capabilities and cost considerations. The City has engaged outside experts to conduct a study of**

**its on-body recording system program. Given these issues, within one year of the Operational Date, APD shall consult with community stakeholders, officers, the police officer's union, and community residents to gather input on APD's on-body recording system policy and to revise the policy, as necessary, to ensure it complies with applicable law, this Agreement, and best practices.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.218 – 4.7.226 Assessing Compliance with Paragraphs 232-240 (Recruiting)**

Members of the monitoring team reviewed APD data related to these requirements in the form of policy, programs, course of business documents, and results. APD continues attracting and hiring qualified individuals and therefore remains in operational compliance with each of these CASA paragraph requirements. APD Recruitment staff continue to provide an impressive array of strategies and concepts for recruiting police officers during the COVID Pandemic and at a time in history in which interest in the profession is down significantly nationwide. Nevertheless, APD has increased interest in joining APD by setting new standards in police recruiting. This unit has successfully utilized digital platforms to reach an applicant pool that includes at least 43 states. Members of the monitoring team “follow” the recruiting unit on Facebook and Instagram and have observed impressive, innovative work.

In response to COVID, the recruiting unit had to rethink and innovate new ways to attend community events and gatherings to carry on its mission. While having created a social media footprint for recruiting, it has been enhanced by adding Twitter and YouTube accounts, including “live” events with the ability for live questions & answers. Zoom meetings were conducted with current cadets and applicants both in and out of state. APD has continued to produce videos, including the academy campus video, which provided an academy tour; Physical Training demonstrations; Cadet interviews; and Specialty Assignments. Both TV and radio have been utilized with the “Stand Alone” videos broadcast by all the local stations and “live” radio segments with call-ins for Questions & Answers. During this reporting period, the recruiting unit continued to attend events related to transitioning from military to civilian life with the Air Force, Army, and National Guard.

The monitoring team applauds the recruiting unit's innovative solutions to COVID restrictions. Recruiting flyers have been included in ABQ water bills. Recruiting flyers and posters have been delivered to unemployment offices. The unit has done “in-person” recruiting at locations with displaced workers and utilizes an SUV as a mobile recruiting “billboard.” They have also targeted gyms and jogging trails for the highest visibility to prospective applicants. Car shows and truck shows have been attended as

these events draw large numbers, with APD building a “lowrider” show car which has received positive recognition. Major sporting events, the State Fair, Balloon Festival, ABQ Pride Events, and many other venues were attended during the IMR-15 reporting period.

These efforts can be seen in the significant increase in phone inquiries, submission of interest cards, and new applicants. All areas have shown substantial increases over the prior years’ numbers. APD has demonstrated diversity in the on-camera personnel in recording the videos for recruitment purposes. This has had a positive effect on recruitment as the number of diverse applicants has surged over prior years, including higher numbers for African American/Black and Native American applicants. The recruiting unit works hand in hand with the newly formed APD Ambassador Program, designed to create meaningful communication between APD and marginalized and diverse communities.

An online marketing company, Boomtime, had been used to reach possible applicants in the past, but APD discovered that another platform—Indeed.com was more effective. In addition to the many social media platforms that have increased interest, referrals from current APD personnel are also effective. APD continues to re-engage interested people who have withdrawn, failed, or missed a testing date. Testing continues to be offered on weekends and evenings and remotely (El Paso) to expand the pool of possible applicants. Mock interviews and physical training (PT) testing without scores has been implemented to assist interested candidates. Along with the testing, a tutoring program for physical training and the written exam is included for anyone interested.

During the November 2021 site visit, the monitoring team again conducted a random audit of the CASA requirements for cadet class CNM 6. During all past audits, the monitoring team has found all of the requirements to be covered. The same was true for this period. For cadet class CNM 6, four records (a 26 percent random sample) were examined, and all required materials were contained in their records. Additionally, a random sample of Lateral Class #26 records was examined, and once again, all requirements were met. This review constituted a 50 percent sample of the Lateral Class.

With the easing of Covid restrictions, the Recruiting Unit began to interact with community leaders and stakeholders to ensure their involvement with the Albuquerque Police Department’s selection process. They have begun recruiting at colleges with satellite academies, including some out of state and testing in El Paso. APD is truly setting new standards in police recruiting.

For the requirement of random drug-testing of current officers (Paragraph 237), APD submitted course of business documentation of testing current APD officers at an acceptable level during this monitoring period. All months had adequate random testing.

APD submitted the 2021 Annual Report and 2022 Strategic Recruitment Plan as required by Paragraph 233. APD has met or exceeded all established requirements for



Paragraphs 232-240. Results for the 15<sup>th</sup> reporting period are included in Tables 232a and 232b on the following page.

**Table 232a: Screening Points for Recruits Class CNM 6**

<b>Class #123</b>	<b>New recruits and lateral hires to undergo a psychological examination to determine their fitness</b>	<b>New recruits and lateral hires, to undergo a medical examination to determine their fitness</b>	<b>New recruits and lateral hires, to undergo a polygraph examination to determine their fitness</b>	<b>Reliable and valid pre-service Drug testing for new officers and random testing for existing officers.</b>	<b>Detect the use of banned or illegal substances, including steroids.</b>
Recruit 1	1	1	1	1	1
Recruit 2	1	1	1	1	1
Recruit 3	1	1	1	1	1
Recruit 4	1	1	1	1	1
<b>Total</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>
<b>Number in Compliance</b>					
<b>Total all Incidents</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>
<b>% in Compliance Total by Category</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**Table 232b: Screening Points for Recruits Class CNM 6**

<b>Class #123</b>	<b>Assessing a candidate's credit history</b>	<b>Assessing a candidate's criminal history</b>	<b>Assessing a candidate's employment history</b>	<b>Assessing a candidate's use of controlled substances</b>	<b>Assessing a candidate's ability to work with diverse communities</b>
Recruit 1	1	1	1	1	1
Recruit 2	1	1	1	1	1
Recruit 3	1	1	1	1	1
Recruit 4	1	1	1	1	1
<b>Number in Compliance</b>					
<b>Total all Incidents</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>
<b>% in Compliance Total by Category</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

#### 4.7.218 Assessing Compliance with Paragraph 232

Paragraph 232 stipulates:

**“To maintain high-level, quality service; to ensure officer safety and accountability; and to promote constitutional, effective policing, APD shall develop a comprehensive recruitment and hiring program that successfully attracts and hires qualified individuals. APD shall develop a recruitment policy and program that provides clear guidance and objectives for recruiting police officers and that clearly allocates responsibilities for recruitment efforts.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.219 Assessing Compliance with Paragraph 233**

Paragraph 233 stipulates:

**“APD shall develop a strategic recruitment plan that includes clear goals, objectives, and action steps for attracting qualified applicants from a broad cross section of the community. The recruitment plan shall establish and clearly identify the goals of APD’s recruitment efforts and the duties of officers and staff implementing the plan.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.220 Assessing Compliance with Paragraph 234**

Paragraph 234 stipulates:

**“APD’s recruitment plan shall include specific strategies for attracting a diverse group of applicants who possess strategic thinking and problem-solving skills, emotional maturity, interpersonal skills, and the ability to collaborate with a diverse cross-section of the community.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**

Operational: **In Compliance**

#### **4.7.221 Assessing Compliance with Paragraph 235**

Paragraph 235 stipulates:

**“APD’s recruitment plan will also consult with community stakeholders to receive recommended strategies to attract a diverse pool of applicants. APD shall create and maintain sustained relationships with community stakeholders to enhance recruitment efforts.”**

#### **Results**

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

#### **4.7.222 Assessing Compliance with Paragraph 236**

Paragraph 236 stipulates:

**“APD shall develop and implement an objective system for hiring and selecting recruits. The system shall establish minimum standards for recruiting and an objective process for selecting recruits that employs reliable and valid selection devices that comport with best practices and anti-discrimination laws.”**

#### **Results**

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

#### **4.7.223 Assessing Compliance with Paragraph 237**

Paragraph 237 stipulates:

**“APD shall continue to require all candidates for sworn personnel positions, including new recruits and lateral hires, to undergo a psychological, medical, and polygraph examination to determine their fitness for employment. APD shall maintain a drug testing program that provides for reliable and valid pre-service testing for new officers and random testing for existing officers. The program shall continue to be designed to detect the use of banned or illegal substances, including steroids.”**

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.224 Assessing Compliance with Paragraph 238

Paragraph 238 stipulates:

**“APD shall ensure that thorough, objective, and timely background investigations of candidates for sworn positions are conducted in accordance with best practices and federal anti-discrimination laws. APD’s suitability determination shall include assessing a candidate’s credit history, criminal history, employment history, use of controlled substances, and ability to work with diverse communities.”**

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.225 Assessing Compliance with Paragraph 239

Paragraph 239 stipulates:

**“APD shall complete thorough, objective, and timely pre-employment investigations of all lateral hires. APD’s pre-employment investigations shall include reviewing a lateral hire’s history of using lethal and less lethal force, determining whether the lateral hire has been named in a civil or criminal action; assessing the lateral hire’s use of force training records and complaint history, and requiring that all lateral hires are provided training and orientation in APD’s policies, procedures, and this Agreement.”**

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.226 Assessing Compliance with Paragraph 240

Paragraph 240 stipulates:

**“APD shall annually report its recruiting activities and outcomes, including the number of applicants, interviewees, and selectees, and the extent to which APD has been able to recruit applicants with needed skills and a discussion of any challenges to recruiting high-quality applicants.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.227 – 4.7.229 Assessing Compliance with CASA Paragraphs 241-243: Promotions**

During the November 2021 site visit for IMR-15, the monitoring team reviewed the records of 100 percent of the promotions to sergeant (3 of 3) and 100 percent of the promotions to lieutenant (4 of 4) in documentation maintained in Human Resources, Internal Affairs, and the Training Academy. All records indicated that personnel promoted were promoted as required by monitor-approved policy and process. APD has been in operational compliance with these requirements for more than three years.

Based on the monitoring team’s review, APD retains its operational compliance finding.

### **4.7.227 Assessing Compliance with Paragraph 241**

Paragraph 241 stipulates:

**“APD shall develop and implement fair and consistent promotion practices that comport with best practices and federal anti-discrimination laws. APD shall utilize multiple methods of evaluation for promotions to the ranks of Sergeant and Lieutenant. APD shall provide clear guidance on promotional criteria and prioritize effective, constitutional, and community-oriented policing as criteria for all promotions. These criteria should account for experience, protection of civil rights, discipline history, and previous performance evaluations.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.228 Assessing Compliance with Paragraph 242**

Paragraph 242 stipulates:

**“APD shall develop objective criteria to ensure that promotions are based on knowledge, skills, and abilities that are required to perform supervisory and management duties in core substantive areas.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.229 Assessing Compliance with Paragraph 243**

Paragraph 243 stipulates:

**“Within six months of the Operational Date, APD shall develop and implement procedures that govern the removal of officers from consideration from promotion for pending or final disciplinary action related to misconduct that has resulted or may result in a suspension greater than 24 hours.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.230 – 4.7.232 Assessing Compliance with CASA Paragraphs 244-246 (Performance Evaluations and Promotional Policies)**

During the November 2021 site visit, members of the monitoring team visited all Area Commands and other duty locations, including Investigations Divisions. Supervisors were able to successfully demonstrate the use of the Talent Management System to the monitoring team. Supervisors continued to be fluent in their use of the system and provided examples of work plans and achievements of subordinates. Supervisors continued to complete the requirements of the policy, the CASA, and the system functions.

APD plans to implement a replacement of the current Talent Management System. The acting lieutenant responsible for compliance with these requirements continues to work diligently on revising policy and training and has implemented a pilot program to hold supervisors accountable within their performance evaluation requirements for Use of Force Investigations. This was one element missing from the current Talent Management System and required by the CASA. It is especially noteworthy that APD is

discovering its own weaknesses/errors and developing solutions rather than waiting for the monitoring team to find weaknesses in APD systems. This is a positive outcome for APD as it works toward compliance. Special Order 21-77 amended SOP 3-32 until the SOP completes the full review process. This Special Order outlined the process for upper-level supervisors to hold line supervisors accountable for Use of Force investigations.

APD has created a new notification system to alert supervisors when the performance evaluations are due. The system will automatically send out notifications 5, 10, and 30 days before the due date of the checkpoint. The 30-day notification enables supervisors to query any missing or additional personnel incorrectly assigned to them.

The monitoring team was provided with course of business documentation indicating that the APD acting lieutenant responsible for the performance evaluation requirements continues to refer supervisors to Internal Affairs for administrative investigations regarding the failure to complete their checkpoints promptly. The 2021 FINAL checkpoint showed a success rate of 98.6 percent completed evaluations (791 of 802) required. Two sergeants did not complete the final criteria for officers assigned to them and were referred to Internal Affairs for investigation. During checkpoint 1 of 2022, 774 of 767 reviews were completed (99.1 percent), with three supervisors being referred to Internal Affairs for failure to complete the evaluation documents on time.

#### **4.7.230 Assessing Compliance with Paragraph 244**

Paragraph 244 stipulates:

**“APD shall develop and implement fair and consistent practices to accurately evaluate the performance of all APD officers in areas related to constitutional policing, integrity, community policing, and critical police functions on both an ongoing and annual basis. APD shall develop objective criteria to assess whether officers meet performance goals. The evaluation system shall provide for appropriate corrective action, if such action is necessary.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.231 Assessing Compliance with Paragraph 245**

Paragraph 245 stipulates:

**“As part of this system, APD shall maintain a formalized system documenting annual performance evaluations of each officer by the officer’s direct supervisor. APD shall**

**hold supervisors accountable for submitting timely, accurate, and complete performance evaluations of their subordinates.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.232 Assessing Compliance with Paragraph 246**

Paragraph 246 stipulates:

**“As part of the annual performance review process, supervisors shall meet with the employee whose performance is being evaluated to discuss the evaluation and develop work plans that address performance expectations, areas in which performance needs improvement, and areas of particular growth and achievement during the rating period.”**

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.233 – 4.7.239 Assessing Compliance with CASA Paragraphs 247-253: Officer Assistance and Support**

The monitoring team reviewed material for CASA Paragraphs 247 through 253 as it pertains to the City’s requirements to offer an Officer Assistance and Support Program to all employees and their family members.

The reporting period for this report was August 1, 2021, through January 31, 2022. As in previous monitoring periods, the monitoring team requested and received documentation during the November 2021 site visit. The data from August 1, 2021, through October 31, 2021, was received by the monitoring team during the November site visit. From November 1, 2021 through January 31, 2022, data were electronically sent from the Director and the BSS staff in a timely manner and as a complete package all of data related to processes of the program.

As stipulated in the CASA, APD is required to “maintain high level, quality service; ensure officer safety and accountability; and to promote constitutional, effective policing.” BSS continues to deliver Critical Incident Service, Therapy Service, and a Training Component as reflected throughout this reporting period and as in previous reporting periods — all of which were readily available to all APD personnel.



Revisions to the BSS process are ongoing and reviewed at regularly scheduled meetings to maintain the most current best practices in the industry. Peer Support Team members attended the COPS Traumas of Law Enforcement Training during this period, a conference highly recommended for peer supporters focusing on officer wellness.

During this reporting period, BSS continued to explore and work improving the program. These efforts include, but are not limited to, the following:

- BSS plans to expand the use of the online Electronic Health Record (EHR) to allow easier care coordination, more responsive data, and better patient care;
- Self-Care Interactive Online Network (SCION), lectures and presentations continue;
- Self-Care Interactive Online Network (SCION) received a federal grant during this reporting period, which should assist in promoting the online forum and the Podcast;
- The Wellness SOP was published and calls for a new APD Unit dedicated to the wellness of police officers and their families;
- A new location with more space (due to demand for services) was located and is being renovated;
- The program continues to expand staffing due to demand; and
- The Director of the program has started revisions to the BSS SOP.

The BSS program delivered supervision training to APD personnel and supplied the monitoring team with supporting documentation.

Peer Support supplied COB documentation for this reporting period to the monitoring team for review. The documentation included:

- Peer Support Activity Data (date/times, method of contact, initiating party, referral, personnel from peer support group); and
- Peer Support survey reports.

Peer Support continues to work closely with the APD Academy to deliver training to APD personnel (Suicide Intervention, Introduction to Peer Support). Peer Support continues to deliver briefings to personnel during all shifts to ensure an opportunity for everyone to have access to the program. The material viewed by the monitoring team, as it relates to this program, is highly confidential, and operational compliance assessment is difficult. APD's BSS programs continue to be industry-standard and compliant with the relevant paragraphs of the CASA.

The monitoring team conducted inspections during the November 2021 site visit at all APD's Area Commands to ensure BSS continued to maintain updated Excel spreadsheets of available health professionals and flyers with the most current information of the program. BSS programs are captured on their "Daily 49" system in APD briefing rooms throughout the department, with the most current information for the program.

On-site inspections of the BSS facilities are conducted by the monitoring team to ensure the security and confidentiality of the program and to ensure that only BSS staff has access to all records maintained within the program. During this reporting period, the monitoring team conducted additional inspections. As a result of the inspection, APD continues to meet all requirements with the relevant paragraphs of the CASA.

The monitor concludes that the BSS has met or exceeded all established requirements for Paragraphs 247 through 253.

#### **4.7.233 Assessing Compliance with Paragraph 247**

Paragraph 247 stipulates:

**“To maintain high-level, quality service; to ensure officer safety and accountability; and to promote constitutional, effective policing, APD agrees to provide officers and employees ready access to mental health and support resources. To achieve this outcome, APD agrees to implement the requirements below.”**

#### **Results**

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

#### **4.7.234 Assessing Compliance with Paragraph 248**

Paragraph 248 stipulates:

**“APD agrees to develop and offer a centralized and comprehensive range of mental health services that comports with best practices and current professional standards, including: readily accessible confidential counseling services with both direct and indirect referrals; critical incident debriefings and crisis counseling; peer support; stress management training; and mental health evaluations.”**

#### **Results**

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

#### **4.7.235 Assessing Compliance with Paragraph 249**

Paragraph 249 stipulates:

**“APD shall provide training to management and supervisory personnel in officer support protocols to**

ensure support services are accessible to officers in a manner that minimizes stigma.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.236 Assessing Compliance with Paragraph 250

Paragraph 250 stipulates:

“APD shall ensure that any mental health counseling services provided APD employees remain confidential in accordance with federal law and generally accepted practices in the field of mental health care.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.237 Assessing Compliance with Paragraph 251

Paragraph 251 stipulates:

“APD shall involve mental health professionals in developing and providing academy and in-service training on mental health stressors related to law enforcement and the mental health services available to officers and their families.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.238 Assessing Compliance with Paragraph 252

Paragraph 252 stipulates:

“APD shall develop and implement policies that require and specify a mental health evaluation before allowing an officer back on full duty following a traumatic incident (e.g., officer-involved shooting, officer-involved accident involving fatality, or all other uses of force resulting in death) or as directed by the Chief.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.239 Assessing Compliance with Paragraph 253

Paragraph 253 stipulates:

**“APD agrees to compile and distribute a list of internal and external available mental health services to all officers and employees. APD should periodically consult with community and other outside service providers to maintain a current and accurate list of available providers.”**

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.240 – 4.7.255 Assessing Compliance with Paragraphs 255 -270: Community Policing and Community Engagement

#### 4.7.240 Assessing Compliance with Paragraph 255

Paragraph 255 stipulates:

**“APD agrees to ensure its mission statement reflects its commitment to community-oriented policing and agrees to integrate community and problem-solving policing principles into its management, policies, procedures, recruitment, training, personnel evaluations, resource deployment, tactics, and accountability systems.”**

## Methodology

Paragraph 255 requires APD to develop policy guidance and mission statements reflecting its commitment to the community, problem-oriented policing, and supporting administrative systems and serves as the foundational paragraph for APD’s community policing efforts. APD, in prior reporting periods, revised its mission statement, reflecting its commitment to community-oriented policing. In this reporting period, APD continued expanding its community engagement outreach through its Ambassador Program, which assigns officer volunteers to conduct ongoing outreach with a range of affinity groups and marginalized communities. This effort represents another important step to integrate community policing and problem-solving principles into aspects of its operations.

In October 2018, in conjunction with community members, APD developed the following mission statement, “The mission of the Albuquerque Police Department is to preserve the peace and protect our community through community-oriented policing, with fairness, integrity, pride, and respect.” The APD vision statement includes the following language, which appears on their website. “Help provide a safe and secure community where the rights, history, and culture of all are respected.” APD continues to make gradual progress integrating community policing principles into its management practices (policies, procedures, recruitment, training, deployment, tactics, accountability systems). APD continued with its Violence Prevention Intervention Program Custom Notifications, which has increased connectivity to community partners and resources in APD enforcement activity, including community partners, resources, and an emphasis on social service intervention to help deter future violence.

APD also expanded its Ambassador Program to identify and train APD police officers who volunteer to conduct outreach with marginalized groups. The officer volunteers build bridges between APD and community groups by meeting regularly with select community stakeholders representing: African- American, Native American, Asian American, Hispanic communities, Refugees, LGBTQ+, Americans with Disabilities, faith-based groups, US Veterans, and Seniors to address concerns and share information. The program also brings together officers and community stakeholders through community-sponsored events, block parties, and town halls when scheduled. APD provided evidence of very positive feedback from the outreach work done thus far through the Ambassador Program.

Other significant outreach efforts occurring during this reporting period included the public safety Echo project, which hosted virtual sessions that provided the opportunity for community members to listen to feature presentations, followed by actual case studies and facilitated discussion. Topics covered include substance abuse, public safety, and mental health. APD also hired a victims’ advocate liaison to increase services such as assistance when applying for benefits to survivors and victims of violent crime.

APD’s youth-focused engagement covered a wide range of activities but no evidence was provided related to APD’s reaching a significant percentage of at-risk youth residing in Albuquerque. Activities reported by APD during this reporting period included the following:

- A visit to the University of New Mexico Hospital Pediatric Oncology Unit allowing officers to interact with hospitalized youth;
- APD crime lab assistance in developing a curriculum for a focused forensic course for high school students;
- APD’s “Lowrider” participating in 20 community events;
- IMPRINT, a program designed to improve relationships between law enforcement elementary school children reaching up to 700 students.

To expand outreach and programming to more at-risk youth, APD is establishing a Coordination committee comprised of relevant government agencies and non-profits to

leverage resources and seek private-sector assistance to greatly increase the department's outreach to youth, including expanding youth athletic leagues and other city-wide activities.

APD reported two sets of findings from its climate culture survey; the first was completed in July 2019. The second was in February 2020, prior to the COVID-19 impact and before protests associated with high visibility incidents became prevalent. The six-month comparison showed little change in the items reported. Most troubling was the finding that nearly 25 percent of officers surveyed indicated that "APD's work is not positively impacting citizens in the community." The monitoring team views these findings as troubling, suggesting a lack of confidence in delivering on the APD mission of securing communities through community policing principles. This concern raised questions about the efficacy of current approaches and the "buy-in" of officers. This may indicate a need further re-think overall community policing strategies.

APD's response in the prior reporting period to this culture survey was to challenge the reliability and validity of findings, noting issues with the way questions were framed and inconsistencies in response patterns. APD, while noting deficiencies in the survey, did acknowledge that some of these findings may have revealed issues that still need to be addressed by APD.

During this reporting period, APD started working on the development of a Memorandum of Understanding with New Mexico State University (NMSU) to develop and administer a culture survey to assess APD's "temperature" related to community policing principles. The agreement calls for NMSU to administer the survey to a sample of APD staff and provide a comprehensive report on APD's internal culture and beliefs towards community policing principles with analysis by rank, gender, and ethnicities.

The monitoring team is encouraged by APD seeking outside assistance to conduct and analyze culture survey findings to understand better officer perceptions and support for community policing principles and practices. The monitoring team is also encouraged by the establishment of a working group to seek ways to increase youth outreach and programming.

APD has previously highlighted efforts to integrate community policing into its operations, noting the following:

- Sworn personnel are completing the COP/POP training;
- The department has incorporated community policing practices into numerous APD policies and procedures;
- Recruitment efforts are beginning to result in a workforce that closely mirrors city demographic;
- Personnel evaluations now include a community policing component;
- Deployment of PRT officers in each of the six area commands augmenting community policing activities.
- The assignment of crime prevention specialists in each area command; and

- Enhancing the School Resource Officer program by reaching out to the National Association of School Resource Officers for training and assistance.

APD expects to execute the MOU with NMSU, conduct the climate survey, and produce a report during the next reporting period to use findings to adjust training and supervision guided by the culture survey findings. The monitoring team is also encouraged by forming a working group to leverage other city, non-profit, and private sector resources to greatly expand outreach and programming for Albuquerque at-risk youth.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### ***Recommendations for Paragraph 255:***

***4.7.240a: Fully execute the MOU with NMSU and complete culture survey and use findings to inform APT training and supervision;***

***4.7.240b: Fully implement Working Group to work with DOJ, local agencies, non-profits, and private sector to leverage resources to expand and reach significantly higher numbers of high-risk youth through various engagement programming.***

### **4.7.241 Assessing Compliance with Paragraph 256: APD Response to Staffing Plan**

Paragraph 256 stipulates:

**“As part of the Parties’ staffing plan described in Paragraph 204, APD shall realign its staffing allocations and deployment, as indicated, and review its recruitment and hiring goals to ensure they support community and problem-oriented policing.”**

## Methodology

In prior reporting periods, APD has struggled in meeting the requirements of this paragraph that call for a realignment of staffing resources to support community policing goals. The first attempt to comply with this requirement was APD’s PACT (Police and Community Together) plan, approved on December 27, 2016. Staff realignment responsive to the plan was continued during the seventh reporting period. Implementation of the PACT plan was terminated during the eighth reporting period and replaced with the deployment of Problem Response Teams (PRT) to all six area commands. The PRTs represented a marked improvement to the old PACT process, with strong goals related to problem-solving policing processes instead of PACT’s enforcement-based processes. However, progress in meeting the requirements stalled.

During this reporting period, staffing analyses were completed and are being used to inform PRT deployments.

During this reporting period, APD produced a Staffing Analysis for the PRTs. The recommendations of this analysis included the following:

- Formalizing a hybrid approach which requires field officers to engage in some level of community policing while the specialized PRTs spend more time engaging in community policing activities such as addressing problem areas or conditions, relationship building activities, and showing additional police presence as required;
- Analysis revealed that patrol officers would have about 20 minutes of each hour or about 33 percent of unobligated time that can be used in community policing activities; and
- APD to adopt a community policing performance standard objective of 33 percent for the key hours of 7 a.m. to 8 p.m.

APD reports that implementing these recommendations will require adopting two new policies, including establishing expectations for community policing activities by field officers and adopting policing performance objectives. APD also indicates that once these policies are implemented, achievement of performance objectives will be assessed by APD in order to inform future deployment practices and measures.

The staffing analyses indicate that staffing levels will vary because each area command addresses different challenges. PRT staffing deployments by area command at the end of this reporting period were as follows:

- Foothills- 5
- Northeast - 5
- Northwest- 5
- Southeast- 10
- Southwest - 6
- Valley- 12 (two six-officer teams)

The Valley Area Command has two teams because of its much higher numbers of calls for service and a higher concentration of the homeless and persons with mental disabilities.

The monitoring team notes continued progress assigning PRT officers to all six area commands based on staffing analyses. The monitoring team expects ongoing consultations with community stakeholders, including CPCs, in developing policies necessary to fully implement the staffing analysis recommendations regarding deployment decisions and ongoing analysis to assess the effectiveness of deployments to inform any required adjustments.

## Results



Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.242 Assessing Compliance with Paragraph 257: Geographic Familiarity of Officers**

Paragraph 257 stipulates:

**“APD shall ensure that officers are familiar with the geographic areas they serve, including their issues, problems, and community leaders, engage in problem identification and solving activities with the community members around the community’s priorities; and work proactively with other city departments to address quality of life issues.”**

#### **Methodology**

APD’s Bid process includes information about geographic areas served, including ongoing and current issues and lists of community leaders. APD previously reported completing the digitized process; however, APD identified issues and attempted corrective actions in test phases. APD was eventually not able to adequately address the technical issues that surfaced during the piloting phase of implementation, leading to the abandonment of the effort to digitize the bid process at this time.

APD established and provided the monitoring team with a delineated process used for the Field Services Bureau BID process, sample BID packets, and Beat Familiarity Packets for Field Services Bureau staff. Information related to the officer’s assigned area is updated quarterly, and the process includes a Beat Familiarity Questionnaire. Beginning in January 2022, APD reports that the FSB questionnaire will be expanded to include command-specific information sheets that will outline important information for each Area Command.

The monitoring team is encouraged by improvements in the delineation of BID processes and the refinements to information covered in the BID packets. We encourage APD officers to utilize packet information fully and to work with other city agencies to address a range of community safety issues. APD may find it helpful to consider a greater emphasis on training and supervision in strengthening coordinative processes with other city agencies and non-profit community-based service providers.

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.243 Assessing Compliance with Paragraph 258: Officer Outreach Training**

Paragraph 258 stipulates:

**“Within 12 months of the Operational Date, APD agrees to provide 16 hours of initial structured training on community and problem oriented policing methods and skills for all officers, including supervisors, commanders, and executives this training shall include:**

- a) Methods and strategies to improve public safety and crime prevention through community engagement.**
- b) Leadership, ethics, and interpersonal skills.**
- c) Community engagement, including how to establish formal partnerships, and actively engage community organizations, including youth, homeless, and mental health communities.**
- d) Problem-oriented policing tactics, including a review of the principles behind the problem-solving framework developed under the “SARA Model”, which promotes a collaborative, systematic process to address issues of the community. Safety, and the quality of life;**
- e) Conflict resolution and verbal de-escalation of conflict and;**
- f) Cultural awareness and sensitivity training.**

**These topics should be included in APD annual in-service training.”**

## **Methodology**

During the previous reporting periods, APD continued revisions and the delivery of COP (Community Oriented Policing) training to its sworn personnel. During a prior reporting period, APD completed the restructuring of its required 16 hours of COP training that better reflects the department’s community policing philosophy, incorporates into training new and evolving departmental policies and orders, and better aligns with COP training requirements. APD previously submitted its revised training to the monitoring team for review. The monitoring team noted several deficiencies which were addressed by APD training staff. The monitoring team subsequently approved the COP training, allowing for its first delivery during 2020. The COP training was developed using a documented seven-step process and covered all the required elements outlined in paragraph 258.

APD’s decision in prior reporting periods to overhaul the required 16 hours of COP training was initially necessitated by a paradigm shift in the department’s policing philosophy, placing a much greater emphasis on community policing and engagement. The approved curriculum and its eventual delivery in some form to all APD officers represented a major milestone for APD in their transformation journey. The training helps officers internalize a different way to perceive their relationship with the community members they serve and to assess alternative ways of interacting with the community. This allows APD to bring “change” to the forefront of its community policing processes.

Evidence of this desired training impact needs to be assessed given results from the Culture Survey findings.

During this reporting period, APD continued to deliver its 16 hours of Basic Training to 124 members of the most recent Cadet class. In addition to the Basic Training, cadets also received a full day of training on Cultural Diversity /Community Engagement that included presentations by community members representing various cultural/ethnic backgrounds. Also added to cadet training was a requirement to perform community outreach. During 2021, the Field Training and Evaluation Program provided COP/POP training as part of the curriculum for the Field Training Officer (FTO) Basic Certification Course and the FTEP Recertification.

The monitoring team is encouraged that COP/POP training is now included in the 2022 annual refresher training calendar with delivery planned for June- August 2022. APD has not yet completed and implemented annualized COP refresher training. The monitoring team believes that completing the curriculum and including it in APD's annual refresher training requirements should be a department training priority. The monitoring team also expects APD to continue to adjust this training as its community policing and engagement processes continue to expand and evolve. APD also needs to develop measures to assess training impact to determine if it achieves attended goals. The monitor acknowledges the adjustments made by APD in its COP training and now needs to ensure that nearly all APD officers participate in annualized refresher training. The monitoring team also expects APD to develop assessment processes to measure the impact of training on-field practices.

## Results

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **Not In Compliance**

### ***Recommendations for Paragraph 258:***

***4.7.243a: Ensure that supervisory processes are oriented with the COP training and new COP goals and objectives.***

***4.7243b: Deliver COP annualized refresher training and ensure future training schedules that provide annualized refresher training.***

***4.7243c: Develop assessment processes to measure the impact of training on-field practices.***

### **4.7.244 Assessing Compliance with Paragraph 259: Measuring Officer Outreach**

Paragraph 259 stipulates:

**“Within six months of the Operational Date, APD agrees to develop and implement mechanisms to measure officer outreach to a broad cross-section of community members, with an emphasis on mental health, to establish extensive problem-solving partnerships and develop and implement cooperative strategies that build mutual respect and trusting relationships with this broader cross section of stakeholders.”**

## **Methodology**

During this reporting period, APD fully implemented the Community Event Tracker. Training on using the tracker was approved and published on Power DMS in January 2022 and now requires both specific sworn and specific non-sworn department personnel to create an entry into the system for tracking. The CET may prove to be a critical management tool in expanding community events and contacts by systematically capturing and reporting this information in a manner that informs decision-making, allowing APD to enhance community outreach. The monitoring team recognizes that field officers' tracking and measuring community outreach encourages and tracks specific outreach by officers and problem-solving with community-based service providers.

The monitoring team notes the reported increase in the number of residents suspected of non-violent, misdemeanor crimes referred for drug treatment and or behavioral health services in lieu of arrests, from 47 in 2020 to 173 in 2021. The monitoring team expects APD to capture and report additional data to determine the degree of equitable use of that discretion across all area commands. APD also needs to make system improvements to facilitate the reporting of contacts and referrals and provide evidence to identify and effectively network with a range of community service organizations and advocacy groups.

The monitoring team recognizes the progress made in implementing the web-based application Community Event Tracker (CET) but urges APD to follow through with its continued development, including capturing more contacts and outcomes and referral information. APD must continue to assess additional training needs and supervisory responses to ensure adherence to policy and effective implementation of these new processes.

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **Assessing Compliance with Paragraph 260: PIO Programs in Area Commands**

Paragraph 260 stipulates:

**“APD shall develop a Community Outreach and Public Information program in each area command.”**

## **Methodology**

Crime prevention specialists from each area command develop a monthly events calendar with information about past and upcoming events and photos. The monitoring team reviewed the area command web pages for this reporting period and noted some information gaps, most notably limited messaging about upcoming events. The APD ambassador program activity, CPC meetings, block parties, and other community events were not listed under the Upcoming Events headings.

Each of the six area commands completed a Community Outreach and Public Information Strategy that outlines goals/ objectives and key activities. It is now important that the area command websites align with their communication and outreach strategies elements. In this reporting period, APD also updated biographical sketches for area commanders and posted monthly and annualized crime data for the specific area commands. It is also important that area commanders provide the necessary oversight and supervision to implement the Outreach and Public Information Strategy, including updating their respective websites.

These strategies also require community outreach to identify problems and issues pertinent to the policing domain and collaborative approaches to solving identified problems and issues. CPCs have also expressed strong interest in having greater input in developing these strategies in the next planning cycle.

The monitoring team provided technical assistance to help APD address the program requirements, beginning with helping APD develop templates to help guide the development of their plans. Area commanders responded, using the provided templates to aid in the development and completion of their plans. During this reporting period, five of the six area commands were able to present and receive feedback on their plans from their CPCs.

The goals of the area command-based public information plans and strategies will specifically address community outreach, messaging, outreach to marginalized segments of the population, and use social media to enhance community engagement. APD has committed to implement much of this strategy during the next reporting period, and plans to consult with the area command CPCs when developing these public information and outreach plans in the next planning cycle.

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

## ***Recommendations for Paragraph 260:***

**4.7.245a: Implement newly developed strategies and programming in the next reporting period and consult with CPCS at the onset of the strategy development process for the next planning cycle.**

**4.7.245b: Regularly update the Area Command websites to include information on upcoming events.**

#### **4.7.246 Assessing Compliance with Paragraph 261: Community Outreach in Area Commands**

Paragraph 261 stipulates:

**“The Community Outreach and Public Information program shall require at least one semi-annual meeting in each Area Command that is open to the public. During the meetings, APD officers from the Area command and the APD compliance coordinator or his or her designee shall inform the public about the requirements of this Agreement, update the public on APD’s progress meeting these requirements, and address areas of community concern. At least one week before such meetings, APD shall widely publicize the meetings.”**

#### **Methodology**

In prior reporting periods, APD used the CPCs as a platform to share information about the implementation of CASA requirements. APD only reported and documented a presentation to the amici parties for this reporting period. Unlike previous years, APD did not provide specific presentations to community members on the IMR’s findings and their response to CPCs. Updates on compliance were mentioned in presentations to some CPCs by senior APD leadership, which also provided opportunities for community member questions and feedback.

CPCs provide a community platform for APD to regularly convey and receive relevant and timely information to community stakeholders and members. The monitoring team notes APD’s increased acknowledgments of the work of the CPCs, raising awareness of specific community safety issues and helping facilitate a response from APD and other city agencies. The monitoring team encourages APD to use CPCs as conduits for updates on policy change, new training, policing strategies and tactics, and addressing residents’ community safety concerns. The monitoring team strongly suggests that APD return to its former practice of using CPCs to conduct presentations that update the community on CASA progress and challenges.

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**

Operational: **Not In Compliance**

***Recommendation for Paragraph 261:***

***4.7.246: APD should ensure that there is congruent follow-up and support for the CPCs' efforts related to Paragraph 312's requirements.***

**4.7.247 Assessing Compliance with Paragraph 262: Community Outreach Meetings**

Paragraph 262 stipulates:

**"The Community Outreach and Public Information meeting shall, with appropriate safeguards to protect sensitive information, include summaries, of all audits and reports pursuant to this Agreement and any policy changes and other significant action taken as a result of this Agreement. The meetings shall include public information on an individual's right and responsibilities during a police encounter."**

**Methodology**

The monitoring team has noted in previous IMRs that "CASA-related reports are posted on the APD website." Further, APD's website has information on an individual's rights and responsibilities during a police encounter." In this reporting period, we noted no changes to these processes.

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

**4.7.248 Assessing Compliance with Paragraph 263: APD Attendance at Community Meetings**

Paragraph 263 stipulates:

**"For at least the first two years of this Agreement, every APD officer and supervisor assigned to an Area command shall attend at least two community meetings or other meetings with residential, business, religious, civic or other community-based groups per year in the geographic area to which the officer is assigned."**

**Methodology**

As noted previously in this report, APD began using Community Event Tracker (CET) at the end of the last reporting period across the department, and officers were guided on its usage.

APD reports that the CET is fully operational. Training for CET is now a requirement for both sworn and unsworn staff. CET data will generate reports to inform management and produce maps of visual areas in need of more community outreach.

The monitoring team reviewed data and looks forward to reviewing the reports generated from this web-based system to confirm officer participation and the outcomes of the officer and citizen encounters. APD previously reported that officers submitted all non-enforcement contact information in a standardized format on a spreadsheet to command staff for tracking purposes. We note that APD previously established, through SOP-3-02-1, the requirement and tracking mechanisms to implement this task. The monitoring team still assumes some modifications to these APD policies and reporting protocols will be made resulting from the change to the web-based “app” tracking system.

We expect APD to finalize the development of the standardized reporting formats, audit officer compliance with reporting, and continue to make improvements in the “web-based application, including a capacity to capture referral information when applicable. The monitoring team expects these reports on these engagement activities to target further engagement efforts and promote community policing practices. The monitoring team urges APD to move quickly to implement the necessary supervisory controls and provide any additional training as required to ensure full officer participation.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **Assessing Compliance with Paragraph 264: Crime Statistics Dissemination**

Paragraph 264 stipulates:

**“APD shall continue to maintain and publicly disseminate accurate and updated crime statistics on a monthly basis.”**

## Methodology

During this reporting period, APD continued to report and post monthly crime statistics for each area command and city-wide crime trends. The monthly data are posted roughly two to three months after reporting. The data sets are a complete reporting on FBI index crimes and other categories. They are easy to follow and now meet CASA requirements. APD also continues its contract with a service that provides up-to-date crime mapping services based on “calls for service” that can be accessed on APD’s



website. APD now specifically tracks homicides with more up-to-date reporting in each area command. During this reporting period, the monitoring team reviewed postings on the APD website and found monthly reporting, including easy-to-follow graphics to help discern trends. The monthly reporting was two to three months after the end of the monthly reporting period, which meets national standards.

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.250 Assessing Compliance with Paragraph 265: Posting Monitor's Reports**

Paragraph 265 stipulates:

**"APD audits and reports related to the implementation of this Agreement shall be posted on the City or APD website with reasonable exceptions for materials that are legally exempt or protected from disclosure."**

## **Methodology**

All requirements stipulated by this paragraph continue to be met by the APD and the City. Further, APD has developed guidelines for determining any reasonable exceptions to posting audits and reports relating to the CASA. During this reporting period, APD continued to post monitoring team reports on the APD website in a timely fashion.

## **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.251 Assessing Compliance with Paragraph 266: CPCs in Each Area Command**

Paragraph 266 stipulates:

**"The City shall establish Community Policing Councils in each of the six Area Commands with volunteers from the community to facilitate regular communication and cooperation between APD and community leaders at the local level. The Community Policing Councils shall meet, at a minimum, every six months."**

## **Methodology**

CPCs have been established in each of the six area commands since November 2014. During this and prior reporting periods, each of the six councils generally meets once a month except during the December holiday season, far exceeding the once every six-month requirement. Since their establishment nearly eight years ago, there has been a remarkable consistency and adaptability displayed over time. CPCs emergence as a viable community-driven advisory body is one of the more significant outcomes of the CASA. In the previous reporting periods, the monitoring team noted that often CPCs made this progress despite inadequate support and guidance from APD. We also noted that through the commitment of CPC leaders, the CPCs forged ahead and achieved a long-held objective of permanently establishing the CPCs as part of the City's governance framework. This was accomplished by the CPCs suggesting and supporting an ordinance that statutorily provides for their ongoing operations.

During the prior reporting period, the transfer of administrative oversight from APD to CPOA continued, including hiring staff assigned to support CPC operations. This transfer yielded benefits for CPC operations, including ongoing virtual meeting support, program guidance, and outreach. During this reporting period, CPCs continued to rely on virtual meetings to conduct their public meetings and are doing so in a manner that optimizes participation. The number of voting members continued to increase, rising to 48 city-wide, representing the highest number ever for CPCs. Attendance at CPC meetings varied, but for some meetings, participation exceeded 60 community members. The monitoring team observed CPC meetings and reviewed agendas from CPC meetings with the topics covered most often aligning with the goals of the CASA such as:

- Interpersonal violence;
- APD policy development process;
- Human trafficking issues;
- Public safety "Echo Project;"
- Albuquerque Gate center for the Homeless; and
- APD Report on Year End Successes and Challenges.

The monitoring team understands that for CPCs to continue in their role of providing a meaningful outlet for community members to share their views and concerns about APD's policing practices, and to make meaningful recommendations for consideration by APD, there must be ongoing collaboration and responsiveness from APD. During this reporting period, APD has pledged to be more responsive to the recommendations made by CPCs, including those recommendations with touchpoints involving other city agencies. In reviewing the status of CPC submitted recommendations, the monitoring team noted that many recommendations assigned a "completed status" that were still under consideration or awaiting more information. We suggest that the "completed" status only be assigned to recommendations for which no further research or work is pending.

The CPCs Council of Chairs continued in their role in helping to coordinate CPC activity, working closely with the CPOA CPC Liaison. Most CPCs also report excellent working relationships with their area commanders and staff. APD leadership also participated in

CPC meetings in this reporting making presentations and answering questions from community members. The CPC program continues as a national model for other cities and departments to replicate as an effective community engagement method.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.252 Assessing Compliance with Paragraph 267: Selection of Members of the CPCs

Paragraph 267 stipulates:

**“In conjunction with community representatives, the city shall develop a mechanism to select the members of the Community Policing Councils, which shall include a representative cross section of community members and APD officers, including for example representatives of social services providers and diverse neighborhoods, leaders in faith, business, or academic communities, and youth. Members of the Community Policing Councils shall possess qualifications necessary to perform their duties, including successful completion of the Citizen Police Academy.”**

## Methodology

In the previous reporting period, the monitoring team reported CPC membership criteria and selection processes changes and the misinformation about those changes posted on the APD/CPC website. The Council of Chairs took a leadership role in re-visiting the guidance for CPC membership selection. Working closely with the prior CPOA Executive Director and the DOJ, the CPCs, began this work by requesting technical assistance from the monitoring team regarding re-engineering the recruitment processes, selection criteria, the selection process, removal of members, and other considerations. The revised and updated guidance was approved in July 2020 by the City’s newly designated CPC Liaison, the prior CPOA Executive Director, and included the following changes:

- Citizen’s Police Academy (CPA): moving forward, the CPA 12-week course will not be required but recommended. (This will require an amendment to the CASA, which has the support of the City, the USAO, the Civil Rights Division of DOJ, and the monitor);
- Ride along: not required but recommended;
- Background Checks: not required. However, if one chooses to do a ride-along, then the background check is conducted using APD stipulated criteria; and

- Criminal history: a criminal history will not exclude a person from serving on a CPC. However, current active felony warrants or pending criminal charges will disqualify a person from membership.

Pending approval of the CASA amendment, the parties agreed to continue to suspend the CPA and ride-along requirements and the criminal history disqualification. The July 2020 revisions to the CPC guidance were not posted on the APD website during the last reporting period, thus limiting public awareness of these changes. Misinformation was posted indicating that any felony conviction disqualified applicants from CPC voting membership absent a police chief's waiver. Corrections were made during the prior reporting period and the posted selection criteria now align with the guidelines approved by the CPC Council of Chairs and the Executive Director of CPOA, and the oversight administrator for CPCs. We know of no specific inquiries as to how this "errant" restrictive misinformation was posted. The monitor will re-engage CPOA during the 16<sup>th</sup> reporting period to determine what steps were taken to determine how this errant information regarding background processes was posted. We note that the monitoring team repeatedly requested information regarding criteria for CPC membership be posted on the APD and CPC websites. The City failed to respond until late in the 14<sup>th</sup> monitoring period.

The rationale for these changes offered by the CPC Council of Chairs and the Parties included removing barriers to membership, with many prospective members simply being unable to meet the demanding time requirements of completing the CPA training. In addition, the changes reduced the probabilities of criminal histories possibly limiting others who now could make significant contributions having already answered for any past criminal conduct. The Council of Chairs noted that adhering to the CPC membership code of conduct held more relevance than any past behavior.

There was substantial progress in expanding membership and increasing diversification during this reporting period, creating a membership better representing a cross-section of the communities served by the CPCs. Interest in CPC memberships are on the rise, and the councils are becoming firmly imbedded, providing monthly opportunities throughout the City to give voice to community members regarding their community safety concerns and solutions.

The monitoring team remains encouraged that CPC expansion and diversification will continue under the administration of CPOA and an increasingly active Council of Chairs. The monitoring team suggests that continue to work with the CPC and Council of Chairs in a collaborative manner. Moving forward, CPOA and the Council Chairs have pledged to continue their membership recruitment efforts, increase overall participation, and play a larger role in helping to shape APD policy and practices.

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.253 Assessing Compliance with Paragraph 268: Resourcing the CPCs**

Paragraph 268 stipulates:

**“The City shall allocate sufficient resources to ensure that the Community Policing Councils possess the means, access, training, and mandate necessary to fulfill their mission and the requirements of this Agreement. APD shall work closely with the Community Policing Councils to develop a comprehensive community policing approach that collaboratively identifies and implements strategies to address crime and safety issues. In order to foster this collaboration, APD shall appropriate information and documents with the Community Policing Councils, provided adequate safeguards are taken not to disclose information that is legally exempt or protected from disclosure.”**

#### **Methodology**

During the IMR 12 reporting period, the City finalized the transfer of the CPC program to CPOA. This has proven to be an important milestone in the evolution of the CPC. The City provided funding for a CPC liaison position, a liaison assistant position, and an additional \$25,000 of non-personnel funding. During a previous reporting period (IMR-13), CPOA staff provided technical support, helping the CPCs from each area command host well over 30 virtual meetings. In this reporting period, CPOA provided support for 29 regularly scheduled CPC monthly meetings, numerous Council of Chairs CPC leadership meetings, and additional meetings with the monitoring team as requested. CPOA administration also continued to make a significant difference in coordinating support for CPCs and providing guidance in working through CPC membership issues.

The monitoring team reviewed CPC minutes and agendas posted during this reporting period and found most to be up to date. In the previous reporting period, each of the required annualized reports for 2020 were completed, and recordings of CPC meetings remained available as well. CPOA reported that CPCs are currently finalizing their 2021 annual reports, which should be completed during the IMR-16 reporting period. This constitutes ongoing positive change regarding CPCs reflects positively on CPOA administration and coordination of CPC functions. CPOA leadership raised concerns about city support in addressing recommendations that have touchpoints beyond APD, such as housing or other regulatory agencies, and requested that the City provide coordinated responses to such recommendations. We will report in depth on this issue in IMR-16.

The most important resource to CPCs remains the members themselves. As noted in previous IMRs, volunteers have devoted their time and effort to building the foundation for the successful operations of CPCs. CPC voting members updated program guidance during prior periods and demonstrated flexibility by fully adapting to hosting meetings virtually. The leadership of CPCs was instrumental in expanding and diversifying

membership and facilitating the enactment of the City Ordinance codifying CPC operations. The Council of CPC Chairs continued addressing recommendation review concerns, mediating disputes, and engaging in CPC strategic planning during this reporting period. The monitoring team believes that it is essential that the City continue to find ways to celebrate and honor this volunteerism that contributes to community safety and advances reform efforts. CPC members' and leadership's tireless efforts on behalf of the residents of Albuquerque are helping to create a national model for engaging community members with the police officers who serve them and are providing opportunities for meaningful information sharing and dialogue.

## Results

Primary: **In Compliance**  
 Secondary: **In Compliance**  
 Operational: **In Compliance**

### 4.7.254 Assessing Compliance with Paragraph 269: APD-CPC Relationships

Paragraph 269 stipulates:

**“APD shall seek the Community Policing Councils assistance, counsel, recommendations, or participation in areas including:**

- a) Reviewing and assessing the propriety and effectiveness of law enforcement priorities and related community policing strategies, materials, and training.**
- b) Reviewing and assessing concerns or recommendations about specific APD policing tactics and initiatives.**
- c) Providing information to the community and conveying feedback from the community.**
- d) Advising the chief on recruiting a diversified work force**
- e) Advising the Chief on ways to collect and publicly disseminate data and information including information about APDs compliance with this Agreement, in a transparent and public –friendly format to the greatest extent allowable by law.”**

## Methodology

During previous periods, CPCs successfully converted to virtual platforms to host meetings. Meeting invites were posted and announced using social media platforms. A participatory webinar format was used, allowing for exchanges among voting members and Q and A from other meeting participants. These sessions, in many instances, included over 60 participants. Virtual meeting formats have continued for this reporting period and often included an impressive number of participants. Voting member numbers continued to increase, reaching a new high of 48 city-wide by the end of the reporting period. CPC agendas and topics continue to align with CASA objectives and

address a wider range of APD policies, practices, and strategies. CPCs also provided opportunities for other city agencies, such as the newly formed Albuquerque Community Safety Department, to present at meetings. Examples of topics covered included the following:

- APD recruitment strategies;
- Violence intervention and prevention programming;
- Use of force policy changes;
- Restorative Justice; and
- Sexual Assault Awareness.

During this reporting period, CPCs continued to address recommendations for APD consideration, including:

- A resolution of appreciation for two APD officers;
- The East Central and Tramway Turnaround;
- Consistency of police vehicle selection, appearance, and equipment;
- Monthly crime statistics capture and presentation;
- Command Staff participation at CPC meetings; and
- Discipline process review of use of force cases.

Issues surfaced in the prior reporting period concerning APD's responsiveness to recommendations with touchpoints with other city agencies requiring a multi-agency response. APD initially chose not to address such recommendations but later agreed to assign staff to help develop a coordinated response. We will report more fully on this process in IMR-16.

CPC leaders also voiced concern about APD's willingness to give the CPCs a role in helping to shape APD policies and practices and not simply asking the CPCs to react to them. To maintain compliance with this paragraph, the monitoring team expects APD to make a more concerted effort to involve CPCs in the policy review process and to help prioritize and shape APD operations. We will monitor developments accordingly.

CPCs continued their maturation process and actualized their vision as a significant linchpin in the APD community engagement strategy to better interact with the community members APD serves. These formalized and highly active advisory bodies in each of the six area commands raised their public profile and increased their collaborative efforts within their area commands. The monitoring team will closely monitor adherence to recommendations submission and review processes as APD finds ways for CPCs to play a more formative role in policy development and shape APD practices.

## Results

Primary: **In Compliance**  
 Secondary: **In Compliance**

**Operational: In Compliance**

**4.7.255 Assessing Compliance with Paragraph 270: CPC Annual Reports**

Paragraph 270 stipulates:

**“The Community Policing Councils shall memorialize their recommendations in annual public report that shall be posted on the City website. The report shall include appropriate safeguards not to disclose information that is legally exempt or protected from disclosure.”**

**Methodology**

APD posted all of its 2020 CPC annual reports during the previous reporting period and presented them in a standard format that captured CPC annual activities and achievements. The monitoring team provided technical assistance in earlier reporting periods to the CPCs, which helped to promote standardization in annual reports. During this reporting period, the CPCs, in conjunction with CPOA, were completing their 2021 annual reports and expected to have them completed by March 2022. The reports will be posted on the CPC website. During this reporting period, the reports include CPC recommendations completed during the reporting period and actions taken or not taken by APD.

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

**4.7.256 through 4.7.277 Assessing Compliance with Paragraphs 271-292: Community Police Oversight Agency**

Paragraphs 271 through 292 of the CASA pertain to the Civilian Police Oversight Agency, including the Civilian Police Oversight Board. These paragraphs require an independent, impartial, effective, and transparent civilian oversight process that investigates civilian complaints and renders disciplinary and policy recommendations, trend analysis, and conducts community outreach, including publishing semi-annual reports.

During the monitoring period and the November 2021 site visit, members of the monitoring team held meetings with the CPOA Executive Director and members of his staff; with the CPOA/CPOAB Attorney; with members of the CPOAB; reviewed relevant training records; and selected (by way of a stratified random sample) and reviewed ten CPOA investigations and four appeals. The CPOA investigations reviewed were [IMR-15-60], [IMR-15-61], [IMR-15-62], [IMR-15-63], [IMR-15-64], [IMR-15-65], [IMR-15-66], [IMR-15-67], [IMR-15-68], [IMR-15-69]. The four appeals or requests for reconsideration were [IMR-15-70], [IMR-15-71], [IMR-15-72], and [IMR-15-73]. We also identified and



reviewed three (3) non-concurrence decisions [IMR-15-74], [IMR-15-62], and [IMR-15-73].

The findings related to Paragraphs 271 through 292 indicate the following outcomes related to the requirements of the CASA.

#### CPOAB

Since IMR-9, the monitoring team has discussed the lack of full membership of the board and the negative impact on workload and effectiveness. We are encouraged to report that during the IMR-15 period, the nine-member board had been reconstituted.

Unfortunately, during the IMR-15 period, as the board had finally reached its full complement of nine members, it was beset by the unexpected resignation of four members (including the Board Chair), citing various reasons. For the final months of the reporting period, the board acted with only five members. Also impacting the oversight process was the resignation of the Executive Director of the CPOA office.

Consequently, civilian police oversight in Albuquerque has lapsed into non-compliance during this reporting period. The City must respond immediately to these issues to avoid further non-compliance findings. Despite noticeable efforts by the remaining CPOAB members to hold the oversight process together until the board returns to its full complement, significant structural work remains. The CPOAB cannot effectively meet its demanding workload and provide “meaningful” oversight with only five members. Compliance with Paragraph 271 has lapsed during this reporting period.

The primary challenge will be to re-initiate the civilian police oversight process during the IMR-16 period. The tasks ahead for CPOA’s Board include:

- To build on past successes such as the revised CPOA Policies and Procedures and Code of Ethics;
- To re-establish full board membership; and
- To design a workflow that allows the board to meet its many tasks effectively and work harmoniously with the CPOA office.

The anticipated changes to the Albuquerque Police Oversight Ordinance (CPOA Ordinance) that the City Council was considering at the end of the review period should prove instrumental in the reset process.

The CPOAB should work harmoniously, united in a goal to meet the mission and tasks of the civilian oversight process as defined by the CASA and the CPOA Ordinance. Further resignations will seriously affect the operations of the CPOAB, as there is an unavoidable training and integration need associated with large numbers of new members.

The challenge for the City is to continue to refine the vetting process for board applicants and to establish an objective and transparent process that diligently and timely identifies

and appoints qualified members who meet the requirements of Paragraph 273. The process must also include a process to advise potential appointees the demands of time and commitment placed upon board members by the CASA and the CPOA Ordinance, particularly regarding the initial and annual training requirements. Ideally, applicants identified in the process as qualified and as probable nominees will gain a realistic assessment of the demands of a board appointment prior to a formal appointment by council.

IMR 16 will reassess the vetting process to determine if it is up to the challenge of appointing qualified board members in a timely fashion. This should be one of the highest of priorities of civilian police oversight in Albuquerque. The monitor is aware that there is an inherent tension between numbers of Board members and numbers of *qualified members*. It is incumbent on the City to achieve both—recruiting a sufficient number of *qualified members* is a primary goal.

The monitoring team had several meetings with various city council members during our site visit. We continue to find that council is dedicated to the principle of effective civilian police oversight, understands the importance of a productive Board comprised of a full complement of qualified members in the police oversight process, and is attentive to issues involving the improvement of the process. As stated above, we are further encouraged to learn that early in the IMR 16 period, council is considering revisions to the CPOA Ordinance that will provide more guidance to the oversight process and ensure full compatibility with CASA requirements for the CPOAB and CPOA.

Based on meetings with the CPOA executive director, members of the CPOAB, and our review of CPOAB meetings, agenda, and minutes, we are satisfied that the current board and the agency recognize the need to be fair, objective, and impartial and to be perceived as such by the public. The CPOAB has proven itself to be an impartial and dedicated body that works to provide effective civilian oversight of the APD. It is an independent agency whose appointed members are dedicated individuals of diverse backgrounds and careers, representing a cross-section of the community. They are committed to the goals of the CASA, as are non-appointed members of the CPOA.

#### CPOA Budget and Staffing

Regarding the CPOA Budget and staffing, the CPOA Ordinance presently states:

“The CPOA shall recommend and propose its budget to the Mayor and City Council during the City's budget process to carry out the powers and duties under §§ 9-4-1-1 through 9-4-1-14, including itemized listings for the funding for staff and all necessary operating expenses.” Section 9-4-1-4(A)(2).”

In IMR 14, we found the CPOA budget and approved staffing were adequate to meet the CPOA mission, but emphasized the importance of filling vacant positions. We are encouraged that in IMR 15, all approved investigative positions have been filled. In addition to the acting executive director, CPOA has seven approved investigative

positions (one lead investigator and six investigators). CPOA has had several resignations and has made several hires in the last year. CPOA has now filled all investigative positions, a major milestone.

Most investigators are relatively new and are going through a normal learning curve. This full complement should have a tangible impact on CPOA investigative output. That notwithstanding, we point out that the lead investigator is also presently the acting director. With the additional duties of the acting director, most of which involve external meetings, it is difficult to perform the role of the lead investigator and exercise quality control over the individual investigations. We highly recommend that a permanent executive director be appointed as soon as practicable, and the lead investigator is allowed to focus on complaint processing, investigative plans, and investigations review and approval. The executive director's position has evolved to be a position requiring interactions with external agencies and the board, along with policy and administrative duties. We note that the executive director's position has evolved to the point that it may require additional administrative support.

CPOA also has openings for two other approved and funded positions, a community engagement specialist and a policy analyst. The community engagement specialist will enhance the office's community outreach efforts, and the policy analyst will focus on aiding the board in its trend analysis and policy and training recommendations. The community engagement specialist opening came about due to a resignation during the IMR 14 period. The policy analyst position was restored in the 2022 budget after being withdrawn in the 2021 budget process in favor of an additional investigative position. Unfortunately, neither position was filled during the IMR-15 period. Filling these positions should be a significant priority for CPOA.

We reiterate in this IMR that we believe CPOA has operated in a relatively efficient manner within the confines of its staffing and the number of complaints it receives. However, as outlined in this and past IMRs regarding the timeliness of completion of investigations and quality of investigations, the CPOA's ability to meet CASA requirements will be extremely difficult to achieve without a full complement of investigative staff in place. Currently, all the investigative positions are filled, which should allow CPOA to keep abreast of its investigative challenges. If the increase in investigative personnel does not result in expected improvements, a staffing and time-management study may be warranted for CPOA.

## Training

The initial and annual training requirements for the Board members and ride-along requirements are contained in paragraphs 274 through 276 of the CASA. The initial training consists of 24 hours and must address "at a minimum" six subject areas enumerated in paragraph 274. Per paragraph 275, annual training shall consist of eight hours of training. It shall address changes in law, policy, or training in the areas enumerated in paragraph 274, plus address any changes in the ongoing implementation of the CASA. Regarding the ride-along requirement, two ride-alongs are required every six months per paragraph 276. The monitoring team has acknowledged that the periods

for annual training do not begin until the initial six-month period for initial training has concluded.

CPOAB training shortcomings that arose in IMR 13 have remained issues of concern in the IMR 15 review period, taking time and energy away from the board's primary tasks and mission and rendering the Board out of compliance with its training requirements. Not all board members who served during the IMR 15 period met initial or annual training requirements.

We have recommended that a process be implemented in which Board initial training is verifiable electronically, or if an in-person class setting is utilized, then verification by class roster and or instructor certification should be made. If successfully implemented, this measure should eliminate reporting issues. In addition, ordinance training topics completion should be recorded separately from CASA training topics. The exact dates of completion of the training for the required topics should be recorded.

We are encouraged to report that progress has been made during the IMR-15 period. Regarding initial training, a refined 24-hour course, testing, and objective verification method were proposed by the CPOAB. Although not yet approved, this was a large step in the right direction. At the end of the IMR-15 period, the proposal was undergoing review by the DOJ and the City Attorney for comment. Once that input is complete, the monitoring team will review the proposal in detail.

Likewise, progress has been made regarding annual training requirements. The annual NACOLE seminar, along with an update by CPOAB counsel on changes in law, policy, CASA, or Ordinance implementation, constitutes the eight-hour annual training requirement. The three current board members who attended the NACOLE training in the Fall of 2021 have submitted course evaluations to satisfy the testing aspect of external training. Although the individual evaluations will need to become more standardized among board members, the evaluations reflected a significant effort to comply with the testing aspect of external, annual training. Two of the board members have since submitted revised course evaluations that demonstrate the value of the training and their keen personal insight as to how the training relates to the CPOA mission.

With the gradually diminishing COVID-19 threat, we are informed that the ride-along requirement will be reinstated during the IMR-16 reporting period. With the clarification that a ride-along not exceed 4 hours in length, that requirement should be more attainable for board members. Although non-observable for IMR-15, the CPOAB continues to be operationally compliant with paragraph 276 due to its long-standing adherence to the ride-along requirement, before the suspension of same due to the pandemic.

The CASA places clear training requirements on the CPOAB, and those requirements are subject to monitoring. Board members should be apprised of this before accepting an appointment. If effective oversight is to be performed by the board, it must keep current with its training requirements and exercise oversight over its own members. The

current CPOAB's actions in the IMR-15 reporting period demonstrate recognition of this principle. To retain compliance, all serving board members must comply with initial and annual training requirements by the end of the IMR-16 period or be within the grace periods for initial and or annual training.

Investigative personnel of the CPOA office also have initial and annual training requirements. CPOA investigative personnel are required to complete 24 hours of initial training within their first year of employment and 8 hours of annual training. As with the process for board members, the monitoring team determines the annual training period to begin at the expiration of the initial training period. Accordingly, we find that at the end of the IMR-15 period, all CPOA investigative personnel were either still within the initial one-year period or had completed their initial training requirement. Likewise, the investigative staff were current with annual training requirements.

### CPOAB Review of CPOA Investigations and APD Policies

Another area of continued challenge is the CPOAB's ability to find the correct balance of the tasks required of the board by the CASA, which consists of review of the handling and disposition of citizen complaints, reviews of officer-involved shootings and serious use of force incidents, recommendations regarding changes to APD policy and training, and the monitoring of long-term trends, particularly as it relates to use of force.

In the past, the board has varied its approach to achieving its oversight of the CPOA investigative work product, initially using a Case Review Committee (CRC) to perform due diligence on each case. The CRC then moved to more of an audit function, whereby only a random number of cases involved a CRC review of the entire investigative file. As we commented in IMR-14, the CRC met in January and April during the IMR-14 period. CRC meetings started again in the third month of the IMR-15 period (October). The CRC chairperson resigned as the chair, and a new chair was appointed. Meetings were held more than once a month for the rest of the IMR 15 period. The meetings focus on how the anticipated changes to the CPOA Ordinance will affect the board's review of the CPOA investigative work product.

A new process is currently in place whereby at least ten days before the board's monthly meeting, CPOA uploads a partial file for every investigation to be considered by the board, consisting of the complaint, investigative report, primary officer OBRD, and findings letter to the complainant. If the board needs more information to reach a decision, such as all the evidence in the investigative file, it may ask for it. This process appears to be working well as the board attempts to exercise its review and approval authority of the CPOA investigations and findings without unnecessarily adding to the workload of the CPOA office. We urge the board to balance its numerous duties to allow it enough time to lend its insight and community perspective to policy, training, and data and trend analysis at APD.

Toward the end of the IMR-14 review period, the Board made a policy recommendation regarding SOP 2-98 (Gunshot Detection Procedure). This proposal resulted in a letter from the chief explaining the APD's reasons for disagreeing and partially agreeing with

the board recommendations. As a follow-up, APD gave a presentation at the December meeting of the board on how APD uses data from the ShotSpotter.

Although the board did not make a formal recommendation regarding policy during the IMR-15 reporting period, the board was active in the arena of APD policy. The CPOAB Policy and Procedures Review Subcommittee met six times during the period. Its meeting minutes reflect earnest efforts to review policies and a willingness to tackle challenging issues such as SOP 2-92 Crimes Against Children Investigations. The CPOA has also collaborated with the subcommittee to make recommendations and is working with the entire board to propose changes in how CPOA handles minor complaints. The Chair of the Policy and Procedures Review Subcommittee also acts as policy liaison to APD and, along with the executive director of the CPOA, attends Policy and Procedure board meetings and meetings of the Policy and Procedure Review Board (PPRB). At present, the board's policy efforts are being assisted by the CPOA data analyst, and we believe that the filling of the approved policy analyst position will enable the board to attain further progress in this area. We will report on the board's policy efforts again in IMR-16.

#### Review of Officer-Involved Shootings (OIS) and Serious Uses of Force (SUoF)

The acting executive director continues to attend and participate in the FRB meetings. The CPOA board reviews the FRB findings regarding OIS and SUoF incidents and through the CPOA, concurs or non-concurs in the findings and communicates the same to APD. CPOA does not investigate OIS or Serious of Force incidents but reviews those incidents, and both the acting executive director and the CPOA board can share their findings and insight with the upper command structure of APD. The board has averaged six to seven of these reviews per month. A Memorandum of Understanding (MOU) between the City of Albuquerque, CPOA/CPOAB, and APOA on the materials necessary for these reviews was being negotiated during the review period. This MOU's stipulations will facilitate the process for allowing the CPOA/CPOAB to conduct its reviews of OIS and SUoF incidents.

#### Investigations and Reliability of Findings

Satisfactory cooperation between the CPOA and IAPS has been firmly rooted since the early days of the CASA. In general, both agencies continue to respect each other's role and realize it is in their best interests, and that of the CASA, to cooperate and facilitate their intertwined missions and related areas of responsibility. The CPOA has the necessary access to information and facilities reasonably necessary to investigate complaints and review serious use of force and officer-involved shootings.

The interim executive director of CPOA continues to have the authority to recommend disciplinary action in cases involving civilian complaint investigations. The Chief of Police, or a designee disciplinary authority, retains the discretion to impose discipline but is tasked with writing a non-concurrence letter to the CPOAB when the Chief of Police disagrees with the CPOA recommendations.

As we noted in the past several IMRs, the investigations produced by the CPOA, once complaints are assigned, are generally thorough. However, again this monitoring period, our stratified random sample revealed investigations that we deem to be deficient. We discuss those below.

First, our review revealed that the ten CPOA cases included two (2) administratively closed investigations or had allegations that were partially administratively closed [IMR-15-64] and [IMR-15-69]. Of these two, we find one, [IMR-15-69], was not a proper administrative closure. That matter involved a complaint that an APD officer called the complainant and warned her not to call and harass a family member of the complainant. The complaint listed the officer's name and the date of the incident. In an interview, the complainant confirmed the date of the incident and the officer's name but gave a different time of the incident and stated that after the phone call with the officer, she met the officer at a public location to speak further. No APD records could be found to match the alleged telephonic or in-person conversations. The officer's OBRD video for the corresponding date and time of the alleged incident was reviewed and nothing relevant was found. Without an interview of the officer, the matter was administratively closed. We find this to be an improper administrative closure. The nature of this alleged matter – a warning to the complainant about her interactions with a family member – could very well not have resulted in an official record of the conversations or activation of the OBRD. The officer should have been interviewed. Depending on the results of that interview, a credibility determination would have to be made if warranted by conflicting versions.

In light of our continued finding of inappropriate administrative closures, we must reiterate that the monitor has allowed approval of administratively closed resolutions in situations in which a preliminary investigation cannot minimally sustain the allegations contained in a complaint. In a subsequent modification of that approval, the monitor allowed the use of an “unfounded” finding in lieu of “administrative closure” in cases in which a preliminary investigation shows, by clear and convincing evidence, that the conduct which is the subject of the complaint did not occur. However, the monitor cautioned that care must be taken not to use this practice as a panacea to reduce current CPOA workload. Once again, we stress that this practice should only be used where the preliminary investigation shows, by clear and convincing evidence, that the allegations of misconduct did not occur and shows no indication of misconduct not related to the original complaint that would require further investigation.

Regarding CPOA investigations in which administrative closure was not utilized, we found three to be deficient in that the investigative record did not support the findings, or the investigative record was not thorough enough for purposes of a reliable finding because proper investigative steps were not taken and or the analysis of evidence was lacking [IMR-15-63], [IMR-14-63], [IMR-14-66].

The first, [IMR-15-63] involved a complaint of a finding by a Federal District Court Judge of lack of credibility in an officer's testimony in a federal criminal prosecution. The court found that certain portions of an officer's testimony regarding failure to disclose promises during discovery made to a cooperating witness in the criminal case were not credible.

The court did not find that the failure to disclose promises in discovery was done in bad faith.

The IA investigation sustained the allegation of failure to answer all questions about employment truthfully, a Sanction Level 1-5. CPOA classified the violation as a Level 5. The sustained finding was based on the officer's admission of failing to disclose promises, as the court's discovery order required. There are aspects of the investigation and CPOA analysis that render it deficient for the purposes of our analysis. The investigative finding sustaining the allegation of untruthfulness was directed to the failure to disclose in discovery, as opposed to the in-court testimony. A failure to disclose in discovery does not, per se, equal untruthfulness. Here, there were actually two incidents of potential lack of truthfulness or candor. The first is the officer's failure to disclose promises made to the cooperating witness in his discovery response to the AUSA (prosecutor) and the defense team in the criminal prosecution. The written Memorandum Opinion and Order ("judicial opinion") and the additional evidence in the investigation clearly show that promises by the officer to the cooperating witness should have been disclosed in discovery but were not disclosed. The IA investigation should then determine why not – deception in the discovery response (untruthfulness), mistake, or inefficiency. The subject's excuse for non-disclosure was that he did not recall conversations in which promises were made, and other conversations involved topics that he did not feel were actual promises. Potential violations of neglect/inefficiency should also have been considered along with untruthfulness. Ultimately the chief non-concurred in the finding of untruthfulness and was unable to consider potential inefficiency violations due to none being documented in the investigation.

The second incident is the in-court testimony of the officer trying to explain the reasons for non-disclosure. A separate investigative finding on an allegation of untruthfulness should have been made for the in-court testimony.

Regarding investigative steps, there were two potential witnesses from the prosecuting office but only one was interviewed, and no explanation was given for not interviewing the other. Although the officer's testimony was quoted in parts and paraphrased in parts in the judicial opinion, the investigation could have been enhanced by an independent review of the officer's testimony. A transcript of the testimony was not made part of the investigation. The investigative report mentioned the promises that the subject officer thought did not amount to promises, such as buying clothes for a witness. However, the investigative report did not focus on the promises that one is more likely to construe as a promise and not forget, such as assistance in a child support case and notifying the Iowa Parole Board of cooperation. Also, the impact of the failure to disclose should have been analyzed as an aggravating or mitigating factor. In this case, the failure to disclose was not deemed to be deliberate or done in bad faith. However, it still resulted in more than a minimal remedy - a jury instruction adverse to the prosecution was given for the discovery violation. This was not made part of the investigation as an aggravating factor, which is a substantial failure.

[IMR-15-66] involved a complaint of retaliation and improperly blocking a member of the public from a private Twitter account that was alleged to be used for government



purposes. It also involved complaints about public comments made in the course of duty. The primary issues regarding the use of private accounts were whether the partial use of the private account for government purposes made the subject a government actor and whether the government actor can block the public from the account, thereby restricting free speech. Proper investigative steps were taken, and the investigation made good use of legal authority. The investigation sustained allegations of failure to obey applicable laws and SOPs (restricting free speech), failure to treat members of the public with respect, and failure to utilize disclaimers while commenting on city business in a personal capacity. The investigation did not sustain allegations of using a city account or password in conjunction with a personal social media account, allegations of conduct unbecoming an APD employee, and using speech that impairs discipline and harmony among department personnel. The investigation was deficient in that it did not address the most serious allegation: retaliation.

No finding whether certain comments and the blocking of a Twitter account against the complainant, who has filed past complaints against APD members, was made regarding retaliation. The conduct analyzed in this matter took place both before and after changes to SOPs that were utilized (SOP 1-1 and 1-2). Care should have been taken to determine which version of the SOP is utilized in conjunction with the timeline of conduct that is reviewed.

In [IMR-15-68], the complainant alleges poor officer response in a domestic violence incident. Officers responded to the incident reported by the complainant's boyfriend. The complainant alleges that the officers did not want to hear her side of the story and her assertion that the boyfriend possessed methamphetamine in the household. The officers separated the couple, had the boyfriend leave, and left underage children in the care of the complainant. No attempt was made to find or confiscate the alleged methamphetamine. In the CPOA investigation, the complainant was not interviewed since she failed to respond to a voicemail message and an email. The subject officer was interviewed, but the second officer was not interviewed, since the OBRDs captured the entire incident. Allegations were sustained against the subject officer for failure to treat a member of the public with respect, courtesy, and professionalism. The investigation also sustained a violation not based on original complaint for failure to follow protocol regarding potential neglect or abuse of children (allegation of drugs present in household with minor children, SOP 2-92-4C.b.i). The version of this SOP that was utilized in the investigation was effective after the date of incident, and the wording of the cited subsection in 2-92 (Crimes Against Children Investigations) was different. Thus, an analysis of the facts within the context of the language from the prior version should have been utilized. In addition, the finding on the code of conduct violation was a close determination. With such determinations, although the incident was captured on a video recording, an interview of the second officer could elicit insight as to whether the interchange between the complainant and the subject officer was appropriate. Lastly, although two attempts to reach the complainant were made (voicemail and email), they were made on the same day. Best practice would require a reasonable attempt on a second occasion before determining that a complainant will not respond to an interview request.

In summary, our analysis reveals four of the ten cases selected in our stratified random sample to be deficient. This represents a CPOA compliance rate of 60 percent, well short of the 95 percent required for compliance.

In addition, there are several matters that, although we do not find them deficient for compliance purposes, we nonetheless point out concerns about conducting fuller investigations and increased communication with complainants.

[IMR-15-74] involved a complaint by a husband that a domestic violence investigation was not complete enough. The officers' conduct was assessed for faulty investigation which resulted in the officers being exonerated. Although we note the findings to be adequately supported by the record (the entire incident was recorded and officers were interviewed), we note that the complainant was not interviewed due to failure to respond to three (3) voicemail messages. Initially, only one recording of one attempted phone call and voicemail message was provided to the monitoring team. Since then, all three recordings have been produced. CPOA is encouraged to continue to document and preserve all attempts to interview a complainant who does not respond.

[IMR-15-65] involved another investigation in which two separate attempts to interview the complainants (husband and wife) were made, each involving a voicemail message, a text, and an email. Although those efforts are certainly sufficient, they were mentioned in the investigative report, but no evidence of the same was provided in the report. Nonetheless, we find the findings in favor of the officers to be reliable based on the officer interviews and the OBRD recordings.

[IMR-15-67] involved a complaint of excessive force, not being able to use the bathroom, and being kept sitting for hours on a bench during processing. The complainant was not interviewed because upon calling the complainant's phone number, his mother answered and claimed the complainant was unavailable because he was homeless. Two officers and their supervisor, a sergeant, were interviewed. A third officer was not interviewed since he was no longer employed by APD, but there was no indication of whether an attempt was made to contact the officer, or why that interview would not be relevant. Findings of exoneration were made to allegations of excessive force and lack of professionalism against the officers. Sustained findings were made against the sergeant, although not based on the original complaint, for failing to examine the complainant for injuries and failing to require a use of force statement by officers by the end of shift. The findings letter back to the complainant was perfunctory and uninformative. It listed the number identifications of the SOPs considered but did not list their captions or substance and provided no synopsis of the investigation or short explanation of why the findings were reached. Although we find the findings reliable based on the interviews and the thorough review of the OBRD recordings conducted by CPOA, this case has noticeable shortcomings – another attempt to contact the complainant through his mother should have been made. Just because an officer is no longer employed, CPOA should not assume the officer is unavailable without a reasonable attempt to contact the officer and request a statement.

CPOA is hereby put on notice that even if they are confident that the OBRD recordings and investigative record support their findings, repeated investigative shortcuts in not making enough effort to gather potentially relevant evidence and/or failing to document those attempts could render investigations incomplete and thus deficient for purpose of paragraph 183 analysis.

We believe the deficiencies and shortcomings noted are related to the CPOA workload, the former shortage of investigative personnel, and the fact that the lead investigator is also the interim executive director. As stated earlier in this section of the IMR, with the additional duties of interim executive director, most of which involve external meetings, it is difficult to exercise quality control over individual investigations. As stated earlier, we highly recommend that a permanent executive director be appointed, and that the lead investigator position be allowed to focus on quality control of the investigative work product, i.e., complaint processing, investigative plans, and investigations review and approval.

#### Appeals and Requests for Reconsideration

We examined four appeals during this review period along with the underlying investigations [IMR-15-70], [IMR-15-71], [IMR-15-72], and [IMR-15-73]. Our examination of these cases reveals that the CPOAB continues to provide a process of meaningful appeals for complainants who seek to appeal CPOA investigative findings relative to their respective complaints.

The monitoring team has previously stated that the board needs to establish an equilibrium in reviewing the work product of the CPOA office. Although not requiring a detailed look by the board of a full evidentiary file in every investigation (in order to carry out its mission of approving investigative findings) the monitoring team has suggested that appeals are instances in which a “closer look” by the board at the investigation and evidence may be warranted. Our comments below reflect how the board may use their review of cases in the appeals process to further their oversight of CPOA investigations and enhance the overall civilian oversight process

In [IMR-15-70], although the appeal was correctly adjudicated, we find that the appeal should have also generated a return of the investigation to CPOA for clarification on an issue involving an officer who was not named in the original complaint. The investigation focused on the actions of APD supervisors to determine whether they improperly interfered with a domestic violence investigation involving the son of a deputy chief. The domestic violence investigation revealed information that the son may have been a primary aggressor, a situation that would usually result in an arrest. There was also an active felony warrant for his arrest, but no arrest was made. The CPOA investigation was very thorough regarding the issues raised in the original complaint (whether the actions of the supervisors interfered with the officer’s discretion to arrest), and its findings in not sustaining were supported by the record. However, it did not consider apparent issues not raised in the original complaint, i.e., code of conduct allegations against the primary officer assigned to the domestic violence call for failing to make the arrest. That officer gave two statements and claimed he was told not to make an arrest by a

lieutenant. The lieutenant had since retired but gave a statement denying that he told the officer not to make an arrest. Even if the issue of a domestic violence arrest may have been a debatable determination based on a primary aggressor analysis, an active warrant is not debatable. The basic issue was that an active warrant was not executed, and either the responding officer utilized his discretion not to make an arrest, or he was told not to by a superior. Allegations not based on the original complaint should have been considered against the officer, with the development of a credibility determination between the officer's version and the lieutenant's version, that could have led to an appropriate finding.

[IMR-15-68] involved a third-party complaint primarily about the actions of an APD detective in a child abuse case in which a young child was killed. This complaint was partially based on a civil complaint against the New Mexico Children Youth and Families Department (CYFD). The findings letter to the complainant showed that the matter was administratively closed as the subject detective no longer worked for APD. In regard to the other concerns of the complainant, which centered around policy and training issues in the very challenging area of child abuse investigations, the findings letter stated only that "in reference to the other concerns, they were reviewed, and additional information is located in the investigative file." The complainant wrote an impassioned appeal in which policy and procedures were stressed. In the letter denying the appeal, the board deemed the request for appeal/reconsideration did not meet the standards set forth in the CPOA Ordinance. The reality is the board and its Policy and Procedures Subcommittee have been analyzing and working on the policy issues pertaining to Child Abuse Investigations. The letter back to the complainant could have highlighted those efforts or referred the complainant to the appropriate meeting minutes on the CPOA website. Such a gesture would demonstrate that the board seriously considers the concerns expressed in the appeal.

In [IMR-15-73] we also find that the denial of an appeal of unfounded and exonerated findings of constitutional allegations arising out of a high-profile detainment to be properly determined. However, there was one sustained allegation that should have resulted in the board requesting another review of the evidence or a second analysis by the CPOA. The sustained charge was against the chief for holding a meeting and giving a talk regarding resignations from the Emergency Response Team, in which the chief allegedly failed to "convey a sense of pride and professionalism." Regardless of how one feels about the efficacy of the meeting, a review of a recording of the meeting should have resulted in greater scrutiny of whether there was really anything improper, from a disciplinary standpoint, about what the chief said. We also review this case as it relates to non-concurrence letters elsewhere in this IMR.

#### Non-Concurrence with Findings and Recommendations of Executive Director

Non-concurrence letters involve the CPOA and CPOAB but are required tasks for APD leadership. Our meetings with the CPOA and a review of a random sample of cases revealed three non-concurrences by the chief or designated disciplinary authority in the IMR-15 review period.

In [IMR-15-61] CPOA entered a finding of exoneration to an allegation of failure to conduct a proper preliminary investigation. In its review of the matter, the board entered a sustained finding on a code of conduct violation for failing to treat a complainant with respect, courtesy, and professionalism for failing to allow the complainant to change from a bathrobe. There was a findings letter to the complainant that showed the chief agreed with the finding of exoneration but a non-concurrence regarding the board's finding, and there was no actual non-concurrence letter to the CPOAB. There was a memo from an interim deputy chief to IAPS explaining the non-concurrence with the CPOAB finding. The explanation, if meant to be utilized as a non-concurrence letter for purposes of informing the CPOAB, was insufficient. The memo addressed procedural issues for disagreeing with the finding. It noted the complainant was never contacted; questioned the substance of the board's finding; and the memo was based on the fact that the interim deputy chief was of the opinion that the violation was time barred. However, the memo did not deal with the substance of the board's finding. Either the evidence supports a code of conduct violation, or it does not, and this non-concurrence letter should have focused on the substantive reasons for non-concurring.

[IMR-15-62] involved a third-party complaint from an attorney about a code of conduct allegation uncovered during a review of an OBRD recording. The officer was exonerated on improper conduct, but a sustained finding was entered against a supervisor for failing to properly instruct, advise, coach, and mentor the officer regarding how to handle an inadvertent OBRD recording. The non-concurrence letter disagreed with the recommended discipline but did not disagree with the sustained finding. The letter adequately set forth the chief's disciplinary analysis. The letter indicated that the chief was imposing an 8-hour suspension, but after a PDH, only a written reprimand was imposed. In letters of non-concurrence to disciplinary recommendations, when informing the board of the discipline which the disciplinary authority feels is proper, care must be taken to point out that the pre-PDH proposed discipline, and that actual discipline may change after a full vetting of the issues in a PDH.

The third non-concurrence letter, [IMR-15-73], was a non-concurrence letter written by the City CAO due to the fact that the sustained allegation was against the chief. Although it was written shortly after the start of the IMR-16 period, since an appeal of the same case is considered in this IMR, we review the non-concurrence letter in this IMR. The reversal of the sustained finding was proper, and the letter appropriately articulated the reasons for reversing the sustained findings. The letter fully met the intent of the non-concurrence requirements of explaining the thought process of the disciplinary authority to the CPOAB and CPOA.

The monitoring team does not believe that compliance to the non-concurrence letters task contained in paragraph 285 is difficult to achieve. If there is a disagreement with the findings and/or disciplinary recommendations, a simple articulation of "why", in a reasonable amount of detail so that the analysis is easily understood, will suffice.

Timeliness of Investigations

As the monitoring team has noted since IMR-8, when reviewing a random sample of investigations, regarding the CPOA requirement to “as expeditiously as possible” process complaints, as required in paragraph 281 of the CASA, and the related time requirement for completing investigations contained in paragraph 191, we look for and determine the following dates: complaint received, complaint assigned for investigation, initiation of investigation after assignment, completion of investigation, and chain of command review and notification of intent to impose discipline (where applicable).

During past monitoring site visits, the monitoring team has discussed with the issue of delays between the date a complaint is received and the date it is assigned for investigation. Although the CASA does not deal directly with the issue of time to assign, the parties and the monitor agreed that a delay of more than seven working days for assignment is unreasonable and would affect the “expeditious” requirement of Paragraph 281.

CPOA has shown great improvement regarding the expeditious investigation requirements contained in paragraph 281, related to the timelines required for investigations, and this reporting period the monitoring team found no timeline deficiencies in our stratified random sample of investigations.

## Mediation

An effective mediation program as a complaint disposition tool should positively affect CPOA’s ability to timely and thoroughly investigate non-mediated complaints and improve relations and understanding between the community and APD. As we pointed out in previous reports, a new mediation policy was developed that was an improvement and was expected to enable CPOA to make greater use of the mediation process. Still, this revised policy did not prove to be successful. Unfortunately, complainants tend not take advantage of the mediation program and had, for the most part, opted not to pursue mediation. As a result, during the 12th monitoring period, a second revised version of the mediation program was developed. The new Mediation Protocol, in the form of a Memorandum of Understanding between the City, APD, APOA and CPOA, was approved by the Court in the 13<sup>th</sup> reporting period. This protocol expired at the start of the IMR-15 review period, and effectively the mediation program has shut down. This constitutes a grave lack of oversight of key CASA requirements by APD, CPOA, and the City.

A new Mediation protocol will need to be implemented to re-initiate the mediation process. The CPOA has proposed that any new mediation program involve the CPOA in contacting and engaging directly with mediators instead of relying on the City to manage the mediation process as a third party. The monitor concurs strongly with this position.

Establishing a viable mediation program has proven to be elusive for CPOA. The monitoring team strongly reiterates that effective use of a mediation policy is an important component of the APD disciplinary process and can improve understanding and relations between the community and APD. Mediation can help alleviate CPOA’s investigative burden, thus resulting in increased time for the more complicated

investigations. Restarting the mediation program should be a CPOA priority, and the City should give serious consideration to the CPOA proposal of CPOA engaging directly with the mediators.

#### Community Outreach and Public Information

CPOA continues to have an active and robust community outreach program, which also utilizes social media and other media

As noted since IMR-13, the Public Safety Committee of the City Council and the City Council approved an Ordinance that realigns the CPC function under CPOA. The bulk of CPOA's outreach efforts in the IMR-15 review period has continued to be the support and enhancement of CPC efforts. With the establishment of the CPC liaison position, it appears to the monitoring team that CPOA has the necessary resources to administer the CPCs effectively. The integration of CPC with CPOA, under the direction of CPOA, is proving to be a significant enhancement to the CPC mission and the community outreach function of the CPOA.

The acting executive director and representatives of CPOA have continued to attend the monthly meetings of the Public Safety Committee of City Council and council meetings when CPOA matters are on the agenda. During the review period, a dinner was held by council members for the CPCs and the CPOA coordination efforts. It was a meaningful gesture of goodwill that reflected appreciation for the CPCs, their volunteers, and CPOA support efforts. CPOA has continued other outreach efforts, such as giving presentations at the academy. The CPOA's outreach efforts are addressed in its semi-annual reports.

The monitoring team finds the CPOA's community outreach efforts to be in operational compliance with paragraph 291 of the CASA. In addition to the hiring process for a Policy Analyst, another CPOA approved position that is pending the hiring process is that of Community Engagement Specialist. It is expected that once that position is filled, the CPOA outreach program will reach new heights.

In our review of the public information requirement for CPOA and the Board, we found that issues we have had in the past with the timeliness of the release of public reports have been largely rectified. With the hiring of the data analyst, CPOA has made noticeable improvements in the timely filing of semi-annual reports. For example the data contained in semi-annual reports is not past-current. Both semi-annual reports for 2020 have been filed and the semi-annual report for the first half of 2021 was completed and submitted to the board shortly after its target date of 120 days. That report was pending Council approval as of the close of the IMR-15 period. The CPOA has made noticeable strides in the content and timeliness of the public reporting requirement.

#### **4.7.256 Compliance with Paragraph 271: CPOA Implementation**

Paragraph 271 stipulates:

**“The City shall implement a civilian police oversight agency (“the agency”) that provides meaningful, independent review of all citizen complaints, serious uses of force, and officer-involved shootings by APD. The agency shall also review and recommend changes to APD policy and monitor long-term trends in APD’s use of force.”**

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

**4.7.257 Assessing Compliance with Paragraph 272: Independence and Accountability of CPOA**

Paragraph 272 stipulates:

**“The City shall ensure that the agency remains accountable to, but independent from, the Mayor, the City Attorney’s Office, the City Council, and APD. None of these entities shall have the authority to alter the agency’s findings, operations, or processes, except by amendment to the agency’s enabling ordinance.”**

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

**4.7.258 Assessing Compliance with Paragraph 273: Requirements for Service of CPOA Members**

Paragraph 273 stipulates:

**“The City shall ensure that the individuals appointed to serve on the agency are drawn from a broad cross-section of Albuquerque and have a demonstrated commitment to impartial, transparent, and objective adjudication of civilian complaints and effective and constitutional policing in Albuquerque.”**

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not in Compliance**

Monitor’s Note:



The CPOA Board should continue to reinforce the need for its members to commit to sections § 9-4-1-5 (B) (4) and (5) of the Albuquerque Police Oversight Ordinance and paragraph 273 of the CASA requiring its members to demonstrate an ability to engage in mature, impartial decision-making regarding APD policies, training and trends, a commitment to the transparent and objective judgment of findings relative to civilian complaints, and a recognition of the importance of public perception of impartiality by the board. During the vetting process, applicants should be made aware of the time commitment, training requirements, and CASA monitoring to which they will be subject as Board members.

City Council is contemplating changes to the Albuquerque Police Oversight ordinance in order to enhance the oversight process. It should ensure that appointments and reappointments of CPOA Board members meet the qualification requirements set forth in the ordinance and paragraph 273 of the CASA and that continued service and reappointments meet the training requirements set forth in the ordinance and paragraphs 274-276 of the CASA.

#### **4.7.259 Assessing Compliance with Paragraph 274: CPOA Pre-Service Training**

Paragraph 274 stipulates:

**“Within six months of their appointment, the City shall provide 24 hours of training to each individual appointed to serve on the agency that covers, at a minimum, the following topics:**

- a) This Agreement and the United States’ Findings Letter of April 10, 2014;**
- b) The City ordinance under which the agency is created;**
- c) State and local laws regarding public meetings and the conduct of public officials;**
- d) Civil rights, including the Fourth Amendment right to be free from unreasonable searches and seizures, including unreasonable uses of force;**
- e) All APD policies related to use of force, including policies related to APD’s internal review of force incidents; and**
- f) Training provided to APD officers on use of force.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### ***Recommendation for Paragraph 274:***

**4.7.259a: Ensure that newly appointed CPOA members receive the necessary 24 hours of training within the required six-month time period.**

**4.7.260 Assessing Compliance with Paragraph 275: CPOA Annual Training**

Paragraph 275 stipulates:

**“The City shall provide eight hours of training annually to those appointed to serve on the agency on any changes in law, policy, or training in the above areas, as well as developments in the implementation of this Agreement.”**

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

***Recommendation for Paragraph 275:***

**4.7.260a: For future training, ensure that current CPOA Board members complete the agreed-upon assessment requirements of annual training within an established time frame.**

**4.7.261 Assessing Compliance with Paragraph 276: CPOA Ride-Alongs**

Paragraph 276 stipulates:

**“The City shall require those appointed to the agency to perform at least two ride-alongs with APD officers every six months.”**

**Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

**4.7.262 Assessing Compliance with Paragraph 277: CPOA Authority and Resources to Make Recommendations**

Paragraph 277 stipulates:

**“The City shall provide the agency sufficient resources and support to assess and make recommendations regarding APD’s civilian complaints, serious uses of force, and officer-involved shootings; and to review and make recommendations**

about changes to APD policy and long-term trends in APD's use of force."

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.263 Assessing Compliance with Paragraph 278: CPOA Budget and Authority

Paragraph 278 stipulates:

"The City shall provide the agency a dedicated budget and grant the agency the authority to administer its budget in compliance with state and local laws. The agency shall have the authority to hire staff and retain independent legal counsel as necessary."

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### 4.7.264 Assessing Compliance with Paragraph 279: Full-Time CPOA Investigative Staff

Paragraph 279 stipulates:

"The agency shall retain a full-time, qualified investigative staff to conduct thorough, independent investigations of APD's civilian complaints and review of serious uses of force and officer-involved shootings. The investigative staff shall be selected by and placed under the supervision of the Executive Director. The Executive Director will be selected by and work under the supervision of the agency. The City shall provide the agency with adequate funding to ensure that the agency's investigative staff is sufficient to investigate civilian complaints and review serious uses of force and officer-involved shootings in a timely manner."

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.265 Assessing Compliance with Paragraph 280: Receipt and Review of Complaints by CPOA**

Paragraph 280 stipulates:

**“The Executive Director will receive all APD civilian complaints, reports of serious uses of force, and reports of officer-involved shootings. The Executive Director will review these materials and assign them for investigation or review to those on the investigative staff. The Executive Director will oversee, monitor, and review all such investigations or reviews and make findings for each. All findings will be forwarded to the agency through reports that will be made available to the public on the agency’s website.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

Monitor’s Note:

CPOA and IAFD should avoid conducting independent investigations of the same alleged misconduct. Jurisdiction should lie with one office or the other. In the rare instance in which an external complaint and an internal complaint address the same subject matter, an agreement should be made regarding which office will conduct the investigation, or a joint investigation with one set of findings should be conducted.

The Board must exercise its oversight of citizen complaints in a fashion that provides meaningful review, while at the same time adequately addressing trend analysis and policy and training recommendations, particularly concerning Use of Force and APD interaction with the public.

#### **4.7.266 Assessing Compliance with Paragraph 281: Prompt and Expedious Investigation of Complaints**

Paragraph 281 stipulates:

**“Investigation of all civilian complaints shall begin as soon as possible after assignment to an investigator and shall proceed as expeditiously as possible.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.267 Assessing Compliance with Paragraph 282: CPOA Access to Files**

Paragraph 282 stipulates:

**“The City shall ensure that the agency, including its investigative staff and the Executive Director, have access to all APD documents, reports, and other materials that are reasonably necessary for the agency to perform thorough, independent investigations of civilian complaints and reviews of serious uses of force and officer-involved shootings. At a minimum, the City shall provide the agency, its investigative staff, and the Executive Director access to:**

- a) all civilian complaints, including those submitted anonymously or by a third party;**
- b) the identities of officers involved in incidents under review;**
- c) the complete disciplinary history of the officers involved in incidents under review;**
- d) if requested, documents, reports, and other materials for incidents related to those under review, such as incidents involving the same officer(s);**
- e) all APD policies and training; and**
- f) if requested, documents, reports, and other materials for incidents that may evince an overall trend in APD’s use of force, internal accountability, policies, or training.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.268 Assessing Compliance with Paragraph 283: Access to Premises by CPOA**

Paragraph 283 stipulates:

**“The City shall provide reasonable access to APD premises, files, documents, reports, and other materials for inspection by those appointed to the agency, its investigative staff, and the Executive Director upon reasonable notice. The City shall grant the agency the authority to subpoena such documents and witnesses as may be necessary to carry out the agency functions identified in this Agreement.”**

#### **Results**

Primary: **In Compliance**

Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.269 Assessing Compliance with Paragraph 284: Ensuring Confidentiality of Investigative Files**

Paragraph 284 stipulates:

**“The City, APD, and the agency shall develop protocols to ensure the confidentiality of internal investigation files and to ensure that materials protected from disclosure remain within the custody and control of APD at all times.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.270 Assessing Compliance with Paragraph 285: Authority to Recommend Discipline**

Paragraph 285 stipulates:

**“The Executive Director, with approval of the agency, shall have the authority to recommend disciplinary action against officers involved in the incidents it reviews. The Chief shall retain discretion over whether to impose discipline and the level of discipline to be imposed. If the Chief decides to impose discipline other than what the agency recommends, the Chief must provide a written report to the agency articulating the reasons its recommendations were not followed.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

#### ***Recommendations for Paragraph 285:***

***4.7.270a: The Chief of Police should issue non-concurrence letters to the CPOA for every case in which he disagrees with the CPOA’s findings or disciplinary recommendations. These letters should clearly delineate why the chief disagrees with the CPOA’s findings, using specific point-by-point analysis.***

***4.7.270b: When informing the board of disagreement with a disciplinary recommendation and the discipline which the Disciplinary Authority intends to***

***impose, care must be taken to point out that pre-PDH proposed discipline could change after a full vetting of the issues in a PDH.***

#### **4.7.271 Assessing Compliance with Paragraph 286: Documenting Executive Director's Findings**

Paragraph 286 stipulates:

**“Findings of the Executive Director shall be documented by APD’s Internal Affairs Division for tracking and analysis.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.272 Assessing Compliance with Paragraph 287: Opportunity to Appeal Findings**

Paragraph 287 stipulates:

**“The City shall permit complainants a meaningful opportunity to appeal the Executive Director’s findings to the agency.”**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

Monitor’s Note:

A meaningful way for the board to exercise oversight of the CPOA investigative findings and recommendations is through the handling of appeals and requests for reconsideration of complainants. These cases are appropriate for the highest degree of scrutiny by the board. The resulting decision-making by the board – approval, disapproval, or request for additional investigation-- and interaction with CPOA on these issues is an opportunity for an understanding to evolve between the Board and CPOA as to what constitutes an appropriate investigation under a given set of facts.

When the CPOA Board grants an appeal, before sustaining any violations that were not determined by CPOA or otherwise altering CPOA findings, its first threshold question should be whether the investigation needs to be returned to the CPOA investigative staff for additional investigation. If the CPOA Board makes findings that were not noted by CPOA or otherwise alters CPOA findings, it should do so only if the record of

investigation sufficiently supports the board's findings and additional investigation is not warranted. When the CPOA Board grants an appeal that sustains violations not found by CPOA or otherwise alters CPOA findings, appropriate disciplinary recommendations should be made, and training/policy recommendations should be made, if applicable.

#### **4.7.273 Assessing Compliance with Paragraph 288: CPOA Recommendations Regarding APD Policies**

Paragraph 288 stipulates:

**"The agency shall make recommendations to the Chief regarding APD policy and training. APD shall submit all changes to policy related to this Agreement (i.e., use of force, specialized units, crisis intervention, civilian complaints, supervision, discipline, and community engagement) to the agency for review, and the agency shall report any concerns it may have to the Chief regarding policy changes."**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.274 Assessing Compliance with Paragraph 289: Explanation for not Following CPOA Recommendations**

**"For any of the agency's policy recommendations that the Chief decides not to follow, or any concerns that the agency has regarding changes to policy that Chief finds unfounded, the Chief shall provide a written report to the agency explaining any reasons why such policy recommendations will not be followed or why the agency's concerns are unfounded."**

#### **Results**

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

#### **4.7.275 Assessing Compliance with Paragraph 290: Regular Public Meetings**

Paragraph 290 stipulates:

**"The agency shall conduct regular public meetings in compliance with state and local law. The City shall make agendas of these meetings available in advance**



on websites of the City, the City Council, the agency, and APD.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.276 Assessing Compliance with Paragraph 291: Community Outreach for the CPOA**

Paragraph 291 stipulates:

“The City shall require the agency and the Executive Director to implement a program of community outreach aimed at soliciting public input from broad segments of the community in terms of geography, race, ethnicity, and socio-economic status.”

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **In Compliance**

### **4.7.277 Assessing Compliance with Paragraph 292: Semi Annual Reports to Council**

Paragraph 292 stipulates:

“The City shall require the agency to submit semi-annual reports to the City Council on its activities, including:

- a) number and type of complaints received and considered, including any dispositions by the Executive Director, the agency, and the Chief;
- b) demographic category of complainants;
- c) number and type of serious force incidents received and considered, including any dispositions by the Executive Director, the agency, and the Chief;
- d) number of officer-involved shootings received and considered, including any dispositions by the Executive Director, the agency, and the Chief;
- e) policy changes submitted by APD, including any dispositions by the Executive Director, the agency, and the Chief;
- f) policy changes recommended by the agency, including any dispositions by the Chief;
- g) public outreach efforts undertaken by the agency and/or Executive Director; and

h) trends or issues with APD's use of force, policies, or training."

## Results

Primary: **In Compliance**  
Secondary: **In Compliance**  
Operational: **Not In Compliance**

### ***Recommendations for Paragraph 292:***

***4.7.277a: CPOA should continue its current processes that have improved the timeliness of the release of semi-annual reports and brought CPOA close to completing reports subject to Board and Council approval within 120 days of completion of the semi-annual period.***

### **4.7.278 Assessing Compliance with Paragraph 320: Notice to Monitor of Officer Involved Shootings**

Paragraph 320 stipulates:

**"To facilitate its work, the Monitor may conduct on-site visits and assessments without prior notice to the City. The Monitor shall have access to all necessary individuals, facilities, and documents, which shall include access to Agreement-related trainings, meetings, and reviews such as critical incident review and disciplinary hearings. APD shall notify the Monitor as soon as practicable, and in any case within 12 hours, of any critical firearms discharge, in-custody death, or arrest of any officer."**

## Methodology

Our review of data related to Paragraph 320 for the 15<sup>th</sup> reporting indicate that during the IMR-15 reporting period, a critical firearm discharge reportedly occurred on November 12, 2021, and the monitoring team was notified three days later, on November 15, 2021. Obviously this constitutes a delay of more than 12 hours. As such APD is not in operational compliance with Paragraph 320. Officer-involved firearms discharges are critical issues, requiring timely notice to the monitor. Fortunately, they are also rare. As such it takes only a few reporting errors to constitute more than the allowable five-percent error rate.

## Results

Primary: **In Compliance**

Secondary: **In Compliance**  
Operational: **Not In Compliance**

***Recommendation for Paragraph 320: APD should redouble its efforts to ensure that timely notification to the monitor of incidents defined in Paragraph 320 are transmitted to the monitor on a timely basis.***

## **5.0 Summary**

APD made steady progress during the 15<sup>th</sup> reporting period. Policy development at APD has become less reliant on monitoring oversight and input and has gradually grown in its ability to move adequate policy product through its internal systems and to submit to the monitoring team policy that requires only minor modifications to be CASA-congruent. As we have noted in the body of IMR-15, training has become an organizational strong point during this reporting period, and the academy has shown the benefit of a strong infusion of well-qualified executives who have had proven performance in well-respected law enforcement training programs. This should make attaining full secondary compliance with the CASA easier moving forward.

Since the inception of the monitor's work with APD, we have advised the agency repeatedly that supervision of in-field activities is critical to APD's compliance success. This remains, in the monitor's opinion, the last remaining objective to address on the path to full compliance. What remains to be done is to focus on APD's sergeants, lieutenants, and commanders to ensure that APD's major compliance systems are CASA-congruent and reflect department-established oversight of uses of force, oversight of day-to-day delivery of CASA-compliant services to the communities APD serves, and oversight of the compliance functions with respect to uses of force and day-to-day interactions with the public. In short, what needs attention at this time is vigilant supervisory and managerial oversight to ensure APD's personnel perform in a manner that is CASA-compliant at least 95 percent of the time. This is a high standard, no doubt, but other agencies have been successful in meeting this standard, and there is no reason APD cannot do the same.

At the current time, APD is 100 percent in compliance with the CASA's policy development processes. The monitor's comments on policies proffered during this reporting period are, for the most part, minor, and tend to be focused on the finer points of policy work, not on tangible CASA requirements. Training, a process at APD frequently noted as deficient and not in compliance with national standards, has come into its own during the last two monitor's reports. APD now fields training that is "industry standard." Supervision processes at APD need a final product improvement push, and mid-level management personnel, and at times command-level personnel, need to be reminded of the critical nature of vigilant oversight of in-field operations.

The capacities to take the final steps to full operational compliance are present within APD. What remains to be done is to focus on the outstanding needs and processes noted in IMR-15, and to work diligently to build internal systems to replace E-FIT and monitoring oversight with internal systems designed to monitor and ensure continued

performance on the street and performance at the supervisory levels. Further, APD will need to focus directly on its disciplinary system, ensuring that the process meets modern standards of progressive discipline. As with other critical tasks with which APD has been confronted, the monitoring team will continue to coach and structure APD's efforts toward full operational compliance with the requirements of the CASA.