

Monitor's 16th 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

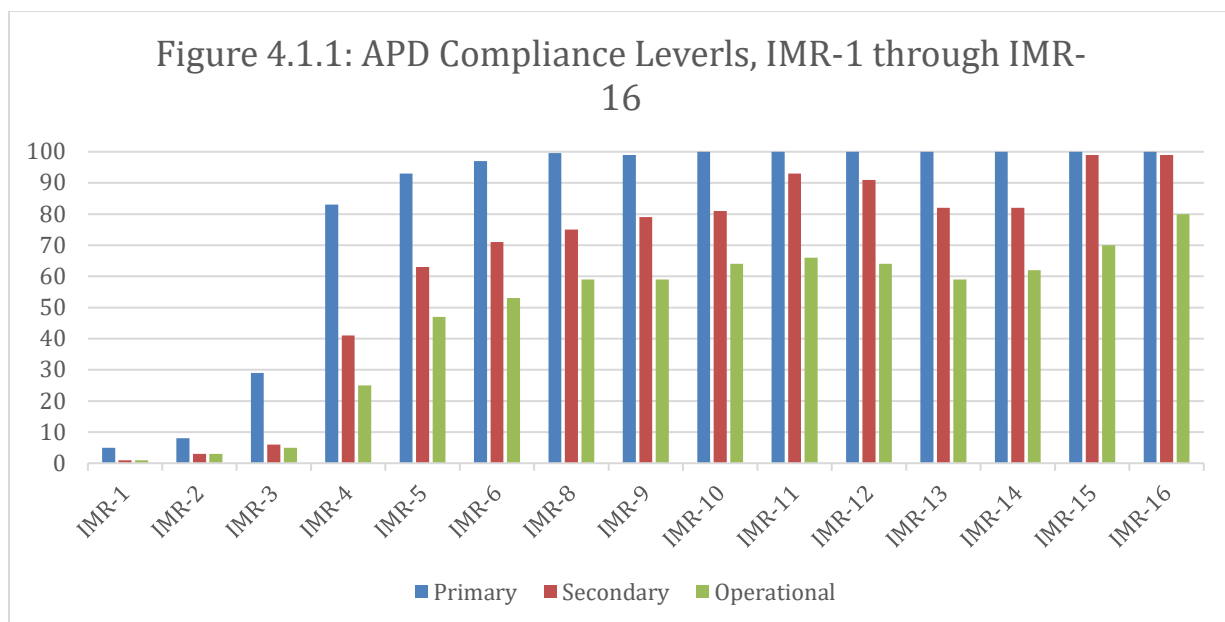
This Independent Monitor’s Report (IMR) follows the same format as all previous reports. That format is organized into five sections:

- 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 16th reporting period, which covers February 1, 2022, through July 31, 2022.

2.0 Executive Summary

During the IMR-16 reporting period, APD has held steady in its overall compliance ratings, with Primary compliance at 100 percent and Secondary compliance levels at 99 percent. This means that APD’s policy development and dissemination processes were found to be CASA-congruent, and that training development and execution were found to be CASA-congruent in almost all cases reviewed by the monitoring team. We note that the monitoring team has found it to be generally not necessary to comment extensively on policy drafts submitted by APD for review during IMR-16. Policies submitted for review were generally well written, CASA-compliant, and industry-standard (in terms of the actions required by APD personnel in the field). Figure 4.1.1 below indicates the trends in compliance levels over the life of the APD reform project.



Training processes continue to be a bright spot at APD. The new cadre of external hires continues to develop training plans, documentation, and delivery systems that comply with industry standards. Communications between Academy leadership and the monitoring team continues to be issue-oriented and focused on modalities to improve training product and achieve compliance with training-related paragraphs.

During the 16th reporting period, we also noted that APD's recruiting unit and the Behavioral Science Section continued the high-quality work the monitor has noted in past monitor's reports.

The primary Force Review Board (FRB) reviewed 43 percent more cases during the IMR-16 reporting period than in the previous period. APD also implemented a secondary FRB during this period. These changes bode well for APD's efforts to hear all use of force cases in a timely manner.

IAPS investigators thoroughly investigated and documented and reached appropriate findings in all cases this reporting period.

The mentoring, coaching, and oversight provided to APD by EFIT continue to reflect industry-standard practices and produce industry-standard results in numerous APD force investigations and assessments. Our reviews of fourteen IAFD cases this reporting period show that these investigations were highly congruent with industry standards. Timeliness of internal investigations was also significantly improved during the 16th reporting period. This reflects improved oversight by IAFD command.

The use of force cases assessed by the monitoring team this reporting period (all of which benefited from on-scene coaching and oversight by EFIT) continue to show improvement.

Further, operational compliance—the degree to which operations in the field comply with the requirements of the CASA—is now at 80 percent compliance. This is a ten percentage point increase in operational compliance during the IMR-16 reporting period, the highest level of operational compliance yet achieved by APD. This progress is significant, but we remind APD that the compliance requirement is 95 percent or higher. The efforts we have noted during this reporting period need to be exhibited consistently if APD is to meet the 95 percent compliance levels needed for full compliance with the requirements of the CASA. Further, we note that the work completed by IAFD and EFIT during this reporting period shows that it is possible to meet and exceed the 95 percent compliance level for use of force investigations at APD. Doing so requires fully focused processes at the supervisory, command, review, documentation, and adjudication levels at APD.

We do note, however, that eventually EFIT will transfer oversight of force responsibilities to APD. This transfer will test APD's ability to sustain the obvious progress that is being

made with day-to-day external oversight. The following four areas will need careful attention as APD works toward long-term sustainability of the CASA reforms achieved:

1. Ensuring that quality investigations are not features that exist only while EFIT is present.
2. Staffing IAFD and sustaining the core competencies of investigators will be a challenge for APD. Growing detective and investigator competencies requires the support of commanders and time to acclimate personnel experiences dealing with officers and the complexity some cases bring. Stabilizing turnover in IAFD's supervisory ranks and investigative staff in the long term will be a key factor for success.
3. APD should consider utilizing the process narrative, which was put into place to establish standards and a system by which all use of force investigations will be assessed for quality, in the future. APD significantly reduced failure rates among investigations submitted through the chain of command during this monitoring period. Since failure rates are directly related to the quality of supervision in IAFD, they can be reasonably viewed as a predictor of IAFD's ability (or inability) to achieve CASA compliance after EFIT is no longer internally monitoring IAFD's quality of work. The assignment of a new commander at IAFD during this monitoring period had a significant positive impact on failure rates.

3.0 Synopsis of Findings for the 16th Reporting Period

As of the end of the IMR-16 reporting period, APD's compliance levels are as follows:

Primary Compliance	100%
Secondary Compliance	99% and
Operational Compliance	80%

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)¹. This was an attempt to provide the Parties with a snapshot of existing compliance levels and, more importantly, to identify 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 clearly depicts the issues standing between the APD and full compliance. This report, IMR-16, provides a similar assessment and establishes a picture of progress on APD goals and objectives since the last monitor's report.

¹ Available at www.AbqMonitor.org/documents/Appendix, pp. 1-306.

4.1 Overall Status Assessment

APD remained consistent with its Primary and Secondary compliance findings at 100 percent and 99 percent, respectively. During this reporting period, APD's Operational compliance increased by ten percentage points. APD's Operational compliance is now at 80 percent.

4.2 Project Deliverables

The Court-Approved Settlement Agreement defines the project deliverables of the CASA. 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. Still, they were 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 selection of random samples, APD personnel were provided lists of specific items, date ranges, and other specific selection rules. The samples were drawn throughout the monitoring period and on-site by the monitor or his staff. The same process continues 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 articulated element 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 report². 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 16th 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 note that the original methodology was sometimes revised based on the availability of records (or lack thereof) 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 16th reporting is described in the following sections.

4.7.1-4.7.3 Assessing Compliance with Paragraphs 14-16

4.7.1 Assessing Compliance with Paragraph 14

Paragraph 14 stipulates:

“Use of force by APD officers, regardless of the type of

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

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 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

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 a determination 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. Level 1 uses of force are handled by supervisors in the Field Services Bureau or other applicable units. The Internal Affairs Force Division (IAFD) responds for investigatory responsibilities associated with all Levels 2 and 3 uses of force.³

³ 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.

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 investigative Manager to oversee all EFIT operations and teams of investigators that work together with IAFD on a rotating basis. The EFIT investigators are involved from the initial response to Level 2 and Level 3 uses of force. They take part in interviews of officers and witnesses and provide instruction during the completion of reports. All investigations are overseen and tracked by EFIT and ultimately reviewed by EFIT leadership.⁴ The monitoring team met with and worked closely with the EFIT executive team members during their preliminary processes. We continued with weekly meetings, in which information is shared, and technical assistance is provided to help EFIT be successful in its work with APD. While Paragraphs 24-36 and 60-77 critically examine 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 since the relationship with EFIT began.

Eventually, EFIT will pass oversight responsibilities back to APD, which will test APD's ability to sustain the obvious progress that is being made with day-to-day external oversight. The monitoring team again calls out the following key areas we believe must be addressed for long-term sustainability:

1. Staffing IAFD and sustaining the core competencies of investigators will be a challenge for APD. Growing detective and investigator competencies requires the support of commanders and time to accumulate personal experiences dealing with officers and the complexity some cases bring. Stabilizing turnover in IAFD's supervisory ranks and investigative staff in the long term will be a key factor for success.
2. The process narrative was put into place to establish standards and a system by which all use of force investigations will follow. During this monitoring period, APD significantly improved failure rates among investigations that were submitted through the chain of command. Since failure rates are directly attributable to the quality of supervision in IAFD, they can be reasonably viewed as a predictor of IAFD's ability (or inability) to achieve CASA compliance after EFIT is no longer internally monitoring IAFD's quality of work. The assignment of a new commander within IAFD during this monitoring period had a significant positive impact on failure rates. Still, APD must ensure that the improvements are not dependent on the ability of a single commander and are instead a culturally ingrained standard of excellence.

⁴ EFIT documents its findings and observations in closeout memos. If they disagree with findings, conversations commence between IAFD and EFIT to share perspectives. In each instance we are aware of, IAFD ultimately agreed with EFIT's perspective on findings associated with uses of force.

3. APD must ensure that strict accountability to timelines and standards for quality are not features that exist only while EFIT is present.

Results

During IMR-16 (data current through August 2022), APD recorded a combined 212 Level 2 and Level 3 use of force cases: the same number of cases as in IMR-15. This continues to reflect a significant reduction in the more serious levels of use of force observed in previous monitoring periods. During this monitoring period, APD and the External Force Investigation Team (EFIT) have maintained their reversal of the previous problematic long-term trend in completing Level 2 and 3 use of force cases. IAFD, working alongside EFIT, completed 151 Level 2 cases, with 148 of the cases being completed within 90 days of the use of force. The three cases not completed within 90 days were misclassified initially by Field Service Bureau personnel, which contributed to the cases not being completed within 90 days of the use of force. (This is addressed pursuant to Paragraph 50).

As noted later in this monitor's report, evidence reveals that problematic productivity levels at IAFD from earlier monitoring periods have reversed and are headed in the right direction. We are aware that this reversal was achieved with external assistance provided by EFIT. Nonetheless, the progress made and initially reported during IMR-15 has been maintained during this monitoring period. 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 force investigation cases falls once again on APD. This is a critical issue for APD, requiring careful consideration, decision-making, and documentation (and more likely than not new policy guidance, training, supervision, and executive oversight).

In the IMR-14 reporting period, the monitoring team noted the growth of backlogged Level 2 and Level 3⁵ cases and the lack of progress in completing those cases. During this monitoring period, the Stipulated Order approved by the Court in 2021 was amended to authorize a secondary EFIT team (EFIT-2) to address these backlogged Level 2 and Level 3 cases⁶. At the close of the monitoring period, approximately two percent of the backlogged cases had been closed. No new cases were added to the list of backlogged cases during the IMR-16 reporting period. The monitoring team will report on the progress of EFIT-2 during IMR-17 when more backlogged cases are available for review. The reader should note that, as of the close of this reporting period, EFIT-2 had been operating for less than two months.

Since APD changed how it records requests for misconduct investigations associated with use of force reviews and investigations, more details are available for internal analysis. Also, since potential policy violations observed during use of

⁵ The backlogged caseload has been reported to be as high as 667 cases at one time during IMR-15.

⁶ EFIT-2 follows a detailed, approved methodology for processing and reviewing force-related cases.

force investigations are being reported to IAPS at a higher rate, this aggregate data provides a rich resource for APD to analyze in order 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. Also, the early identification and reporting of misconduct during force investigations reduces the compounded administrative burden that can fall on APD as those cases move through the chain of command.

As we noted in IMR-15, APD and the City have made a significant investment in the EFIT. The result has demonstrated that the terms of the CASA can be achieved with investigative effort and close oversight by supervisors and commanders. 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.

In this reporting period, evidence reveals that APD continued to struggle with completing supervisory force reviews within 72 hours. Additionally, APD supervisory and command personnel still struggle to complete their reviews of Level 1 use of force reviews within the allotted 30-day time period. However, APD had better success during this monitoring period⁷ In IMR-16, the amount of time it took APD to complete the 83 Level 1 use of force cases APD opened for supervisory review ranged between 13 and 87 days. Ten of the cases completed exceeded 30 days, with four of these cases exceeding 80 days. Seventy of the 83 cases were completed within 30 days, although four of these 70 cases were at the 30-day mark. The monitoring team conducted a review of Level 1 uses of force drawn from samples taken throughout the reporting period. We document our reviews of those cases and statistical findings regarding Level 1 uses of force in greater detail in Paragraphs 41-59.

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. It 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

⁷ 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).

disciplinary decisions to area commands. Based on some of this technical assistance from the monitoring team and feedback from DOJ, we note that APD has developed a proposal for a pilot program to change how it handles Level 1 use of force cases. This initiative, which commenced in August 2022, will use a dedicated group of APD personnel to conduct Level 1 reviews. The monitoring team will review the data from this initiative during IMR-17.

During this reporting period, the monitoring team corresponded with APD personnel responsible for the tasks associated with Paragraphs 86-88 and met with Academy personnel during our May 2022 site visit. We also reviewed and approved several CASA-related training programs during this monitoring period. In the 15th monitor's report, we documented the positive strides the Academy took toward compliance. Because of their collective efforts, APD achieved Operational Compliance with Paragraphs 86 and 87, but Paragraph 88 remained at Primary Compliance. Based on our interactions throughout this monitoring period and a review of available data, APD has sustained its momentum with respect to Paragraphs 86 and 87, and the agency's leadership believes that by the close of the IMR-17 monitoring period, its compliance standing for Paragraph 88 will be elevated. The impetus of success will be APD's Academy and the capacity to complete the required tasks. We see the current Academy staff being proactive and implementing administrative measures without the need for technical assistance. We see that as a good indicator of sustainable compliance in the future. We document our observations of APD's training efforts more extensively in Paragraphs 86-88.

The monitoring team continued to see strong attendance by the Force Review Board (FRB) members. As with the previous monitoring period, generally, the use of force cases presented of late have been those that occurred since the EFIT began assisting and overseeing IAFD's activities in July 2021. With the increase in the quality of the investigations and a more reliable referral of misconduct identified during those investigations, there has been a noticeable impact on the FRB. We did note that the degree of discussion among FRB members has decreased significantly over the past two monitoring periods, 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. As we previously noted, we attribute this principally to higher levels of confidence the FRB has in findings made by IAFD since EFIT assists with and supervises the cases. That said, we caution the FRB to remain vigilant in its review of cases and continue to embrace its executive role over the accountability system through the FRB. The monitoring team is impressed with the degree of engagement over the past 20 months. That sustained energy will become more important as IAFD sworn detectives and civilian investigators are released to conduct Level 2 and 3 uses of force without the attendance of an EFIT investigator. Likewise, there will be a time when IAFD assumes all investigations without EFIT's supervision when the culture established within the FRB will be crucial. It is the monitor's opinion, based on evidence reviewed over the past two monitoring periods, that EFIT has provided a substantial "base of operations" for IAFD moving forward.

During the IMR-16 reporting period, the FRB held 30 separate and distinct weekly meetings, constituting a 43% increase in meetings over the prior (IMR-15) reporting period. The total number of events/cases heard during the last monitoring period was 55, including ten tactical activations without an accompanying use of force. For this monitoring period, the FRB heard 20 tactical cases, 19 Level 2 cases, and 56 Level 3 cases (17 of which were officer-involved shootings). It was evident during the 16th monitoring period that the FRB's pace of hearing cases increased dramatically. These increases with the Primary FRB, coupled with the launch of the Secondary FRB, bode well for APD's efforts to hear all use of force cases in a timely manner. We report more extensively on the progress of the FRB in Paragraph 78.

Our observations of APD's progress throughout this monitoring period have been positive, and as noted above, several key indicators of success have been sustained. We are encouraged by the efforts of APD and the investment the City and department have put toward establishing an upward trajectory toward compliance. The department should pay close attention to the three key areas we noted above. While we recognize the efforts in the past two monitoring periods, at this time, it is difficult to precisely gauge the organizational impact when EFIT is no longer working with the department.

APD is currently reviewing and revising its use of force suite of policies. Changes to those policies will likely require the Academy to revisit its four phases of training to sustain current compliance levels. We will continue to provide technical assistance to APD to help the department provision for these foreseeable tasks. For this monitoring period, we determined that APD sustained Secondary Compliance with Paragraph 14.

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

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

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.”

Methodology

APD’s use of force policies integrate a three-level reporting system that was approved by the monitor and the Parties and implemented on January 11, 2020. During this monitoring period, advances gained were sustained in training and force investigations, attributable to APD investing in and leveraging the experience of people from outside the organization and increased supervision in various areas of the organization. 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 a determination of each involved officer’s conduct to determine if the conduct was legally justified and compliant with APD policy. APD is in the process of reviewing and revising its use of force suite of policies, and when implemented it will require the Academy to revisit its training regimen to ensure Secondary Compliance is sustained.

Results

In IMR-15, APD completed its compliance requirements for Paragraphs 86-87, which consequently brought Paragraph 15 back into Secondary Compliance. Their training efforts were sustained during this monitoring period. The training provisions in Paragraph 88 are being addressed and will be reported on in the next monitoring period.

The monitoring team remains committed to continuing its technical assistance to help guide APD toward success. APD is piloting a Level 1 use of force program in two Area Commands within the Field Services Bureau.

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.”

Results

APD has met the requirements of Paragraph 16.

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

4.7.4 – 4.7.10 Assessing Compliance with Paragraphs 17 - 20

The 2022 Firearms Training cycle was completed, and APD provided course-of-business (COB) documentation that 96.2 percent of sworn personnel (858 of 887) and 99.4 percent of active-duty personnel completed firearms qualification. Officers returning from leave (currently 29 individuals) 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 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 monthly inspections per squad (except in one location where the lieutenant checked all officers). Two lieutenants were asked if they conducted the inspections, and both were able to document their actions. The records we reviewed supported this contention.

The Training Academy revised the Enterprise Learning Management system (ELM). It was once again able to capture data regarding remedial firearms qualifications and analyze and summarize data to make policy and training decisions based on that data. APD has established a process to document practice sessions via QR Code, 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.

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. In addition, staff now initiate a PEMS Command Initiated Assessment through BlueTeam, where each officer's chain of command will be required to develop and monitor an improvement plan. This was the resulting action taken when data showed an increase in failures from 2021 to 2022. Many failures with the Patrol Rifle were attributed to failure to practice regularly. APD implemented a mandate stating that failing to qualify requires a minimum practice once every two months. Officers failing to meet the minimum practice requirements will lose the right to carry the rifle for one year. Officers must sign in via QR Code to ensure practice times are captured, and the firearms staff will audit the practice log to ensure compliance.

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

APD is in the process of reviewing and revising its use of force suite of policies, which were first approved by the monitor in 2019 and went live within the department on January 11, 2020. The update of the suite of policies was still pending at the close of this monitoring period.

As we documented in Paragraphs 86-87 of IMR-15, APD made substantial progress throughout 2021 to complete its Tier 4 and 2021 annual use of force requirements, thus achieving elevated compliance levels with those paragraphs.⁸ The significance of Paragraph 21 has been demonstrated on many occasions in the past, as reviews of use

⁸ Supervisory training requirements associated with Paragraph 88 remain incomplete, but substantial progress throughout 2022 leads the monitoring team to assess that task has a significant probability of achieving compliance before the close of the next monitoring period.

of force cases related to the techniques used with displaying a firearm have shown deficiencies. However, our case reviews (documented in Paragraphs 41-59 and 60-77 of IMR-15 and this report) reveal better performance by officers in the field and a significant increase in the quality of force investigations. We discuss training more extensively in Paragraphs 86-88 and believe that APD advanced its efforts to sustain compliance with Paragraph 21 throughout this monitoring period.

The monitoring team reviewed training records for APD's annual firearms training. On February 16, 2022, Special Order 22-20 was issued requiring all APD personnel to attend the "2022 Day and Low Light Firearms Qualifications and ECW Recertification" course, which was held between the dates of April 4 and May 19, 2022. As part of those training programs, officers were trained on the proper techniques of unholstering, drawing, and exhibiting firearms. A review of attendance and scoring records, and a closeout memo dated June 1, 2022, showed that APD had a 98% attendance and passing rate for the training.⁹ The monitoring team also reviewed training materials for APD's 2022 RBT training (detailed in Paragraphs 86-88) and attended the training on-site in May 2022 while APD was refining the course delivery. Special Order 22-48 was issued requiring all officers to attend the training between the dates of June 8 to September 29, 2022. At the close of the monitoring period, APD reported that approximately 39% of officers had attended and passed the training. By the time that statistic was documented in a status memo, less than half of the training sessions had taken place. As part of the training, officers are assessed in active scenarios using video and real-life actors, during which they must demonstrate their proficiency with their handgun and ECW.

Results

The monitoring team has determined that APD has sustained Operational Compliance with Paragraph 21 during this monitoring period. We will compile final training records at the close of the next monitoring period and will continue monitoring performance in the field through use of force case reviews.

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 moving vehicle, including shooting to disable a moving

⁹ There was a percentage of officers who remediated non-passing scores to passing scores while at training.

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.”

Methodology

As noted in Paragraph 21, APD has substantially advanced training relative to firearms usage throughout 2022.

Results

As we have noted in the past, although use of force incidents related to Paragraph 22 are rare, we encourage APD to regularly assess its policies and training to ensure they keep up to date with legal standards and best practices. Low frequency-high risk events should be of particular concern to the APD executive staff. We highly recommend 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.

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

The monitoring team requested course of business documentation that demonstrated provisions within this paragraph had been met. During past monitoring periods, APD published its final Annual Use of Force Report for the years 2016-2019, and 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. 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, but as of the close of IMR-16, the report was not complete. In IMR-15, we commented that it was not unusual for the 2021 use of force data to take time to assemble into an updated Annual Report since that monitoring period closed only a month into 2022. The fact that APD still has not submitted its 2021 Annual Use of Force report, in either preliminary or final status at this point, concerns the monitoring team. However, based on our discussions with APD, they believe that during the IMR-17 monitoring period, we will be provided with the 2021 Use of Force Annual Report. We note that EFIT has been contracted to address the backlog investigations and began its work during the IMR-16 reporting period. As the pending backlog cases are completed, APD will be expected to reassess the Annual Report for final status.¹⁰

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.

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 is finalized and statistics remain up to date and accurate.

4.7.10b: Coordinate efforts with EFIT-2 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:

¹⁰ 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.

Paragraph 24: Use of ECWs;
Paragraph 25: ECW Verbal Warnings;
Paragraph 26: ECW Limitations;
Paragraph 27: ECW Cycling;
Paragraph 28: ECW Drive-Stun Mode;
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 implementing 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's compliance with five Paragraphs was adversely impacted as the result of the misuse of ECWs by APD personnel. 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 perspective¹¹ regarding the process for assessing 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 IMR-15, some cases were determined to be out of compliance (consistent with the finding of IAFD), adversely impacting the operational compliance status of three CASA paragraphs.

¹¹ 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.

During this monitoring period, APD case ledgers revealed 36 distinct cases in which an ECW was utilized, inclusive of nine Level 1 ECW Shows of Force where no higher level of force was utilized.¹² There were 27 cases in which an ECW was utilized that were investigated as a Level 2 or Level 3 use of force. Nine of these 27 cases consisted of just an ECW show of force that was not accompanied by an ECW application or miss.¹³

In the previous monitoring report, the monitoring team noted that it was the first time all ECW cases investigated by IAFD had been completed within specified timeframes. During this monitoring period, all nine ECW cases reviewed by the area commands were completed within 30 days.¹⁴

Table 4.7.11

Monitoring Period (MP)	ECW Cases Opened during the Monitoring Period	ECW Cases Opened <u>AND</u> Completed During the Same Monitoring Period	% of ECW Cases Opened and Completed During the Same Monitoring Period
IMR-11	53	33	62%
IMR-12	99	30	30%
IMR-13	67	3	4%
IMR-14	40	11	28%
IMR-15	20	11	55%
IMR-16	36 ¹⁵	21	58%

A short synopsis of each case reviewed by the monitoring team during this reporting period 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).

¹² In IMR-15, four of the 20 ECW cases (20 percent) included only ECW Show of Force (cases in which an actual ECW application did not occur, but the weapon was pulled from the duty belt and pointed at an individual). 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 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.

¹³ Another higher-level use of force was utilized besides an ECW application or ECW miss to warrant the ECW show of force to be investigated as a Level 2 or Level 3 use of force by IAFD.

¹⁴ Some Level 1 ECW cases that occurred during the last month of the monitoring period were completed in August 2022 but were still completed within 30 days.

¹⁵ Nine of the ECW cases were Level 1 cases and 27 were Level 2 and/or Level 3 cases. All nine of the Level 1 ECW cases were closed within 30 days, although four of them were closed after the close of the monitoring period. Additionally, all nine cases were deemed to be "in policy." Four of the Level 2 / Level 3 cases investigated by IAFD were deemed to be out of policy. Each one of these four cases involved an ECW application.

[IMR-16-01] (Level 1 – ECW Show of Force)

During an evening in March 2022, APD officers responded to a burglary related to a potential domestic violence incident. Officers took a report that the complainant's grandson had thrown a large rock through the sliding glass door, entered the apartment, and stolen some electronic equipment before fleeing. While officers were still in close proximity to the scene, they observed the suspect arrive back at the residence with a backpack. The subject then became involved in a verbal altercation with a neighbor. When officers approached the suspect, he was told he was being detained as a result of the burglary investigation. The suspect was non-compliant with officers who had deployed with ECWs and a 40mm launcher. After successfully de-escalating the situation, officers reached a stalemate, during which the suspect was no longer agitated. However, he still did not comply with commands to get on the ground. The suspect verbalized he would not be handcuffed. A sergeant arrived on the scene and in very short order, assessed the situation and advised the suspect he was under arrest. When the suspect voiced his noncompliance with submitting to arrest, the sergeant and another officer utilized their ECWs to laser paint the suspect, emit an audible sound (arcing), and gave warnings that the subject would be tased if he continued to resist handcuffing efforts. The suspect went to his knees, and he appeared to lie down after hearing the arcing of the ECW. Two officers immediately moved in to handcuff the suspect without any further resistance.

The monitoring team notes that the suspect offered only passive resistance during the entire encounter with APD. Paragraph 24 of the CASA notes that ECWs “shall not be used solely as a compliance technique or to overcome passive resistance.” The supervisory review did not address the fact that the actual application of an ECW was not appropriate in this matter. In fact, the supervisory review deemed the ECW shows of force to be the minimal amount of force and that the force was necessary, reasonable, and proportional. However, the monitoring team calls into question the appropriateness of pointing, painting, or arcing of an ECW and/or providing the standard “Taser, Taser, Taser” warning given just prior to deploying an ECW application to merely overcome only passive resistance in this property crime case when the actual deployment of the ECW would have been out of policy at the time of the shows of force. For this reason, the monitoring team deems this ECW show of force to not be in compliance with the CASA because the show of force was not immediately necessary, reasonable, appropriate, or the lowest level of force to employ in this situation.

[IMR-16-02] (Level 2 – ECW Application)

APD officers responded during daylight hours to an April 2022 call from City code enforcement officials needing assistance to clear persons from a residence reclaimed by the City after it was deemed substandard. Uniformed officers arrived and made numerous public safety announcements for any occupants to exit the residence. After no persons responded to the announcements, officers entered the residence which had no electricity or running water, and found four adults (two males and two females). The adults pulled a laundry cart into a doorway to prevent officers from proceeding further

into the residence. The officers then clearly explained their purpose for being in the residence. The four individuals denied the officers had the right to evict them and said that they were the legal owners of the residence despite telling officers they had initiated legal proceedings to try and get possession of the residence once owned by a relative. Officers used time to their advantage to initiate and engage in calm discussions to resolve the issue, despite numerous threats to resist and not obey the officers' commands. The officers told one of the males he was under arrest for criminal trespassing and obstructing officers, the officers then attempted to grab his wrists, but the male pulled away and backed up. After one officer moved inside the doorway of the room occupied by the four persons, he asked one of the females to retrieve clothes for the male, who was advised he was under arrest. When the officer followed the female down a hallway to ensure the safety of the other officers, one of the males lunged at the officer and struck him. The other male became involved in the battery of the officers, and both were told they would be tased. The physical struggle continued, and one of the males was tased once. The male fell into a wall and slid down onto the floor. The other male continued to physically push and strike officers, and an officer used minimal physical force to take that male to the ground and subdue him. While two officers attempted to handcuff this individual, the officers were attacked and bitten by one of two dogs in the residence. The individual who was tased was eventually handcuffed and both males were escorted from the residence.

Despite officers utilizing appropriate tactics, de-escalation techniques, and crisis intervention language to reduce the individuals' stress levels, the officers had to resort to using multiple shows of force and one application of an ECW to control and arrest the males who had engaged in physical force in an attempt to stop the officers' lawful actions.

A supervisor was called to the scene due to the uses of force and accurately determined the case was a Level 2 use of force. IAFD/EFIT personnel responded and conducted an appropriate on-scene investigation. The monitoring team concurs with IAFD's findings that the officers' necessary uses of force, including the single ECW application, were objectively reasonable, minimal, and proportionate based on the individuals' active resistance after committing battery on officers and attempting to obstruct their lawful objectives.

[IMR-16-03] (Level 2 – ECW Application)

APD officers responded just after midnight to an apartment complex after receiving multiple calls that an individual was breaking and entering into a residence and fighting with persons there at the scene. Upon arrival, officers observed a male (identified as the perpetrator, who was in possession of a knife) on the inside of a ground-floor apartment, reaching outside through a broken window and fighting with a male and female both outside. The suspect had grasped one of the individuals outside by the hair, and punches/strikes were being exchanged. The officers gave commands to stop fighting and to let go, or the suspect was going to get tased. However, the struggle continued as the suspect actively resisted the officers' commands to stop his battery. One of the officers who had the clearest access to the male and the best view into the apartment

discharged his ECW one time, striking the suspect. The ECW did not appear to have the desired incapacitating effect. The officer continued to assess the situation and the suspect's proximity and movement in the apartment toward a resident and subsequently deployed a second ECW application. This application had the desired incapacitating effect on the suspect. The suspect fell to the ground and subsequently followed the officers' commands to roll onto his stomach. At that time, the officers handcuffed him without incident or need to use additional force.

The officers immediately checked on the conditions of others involved and were extremely professional and compassionate in their conduct. As a result of continued arguing between the suspect and other civilians at the scene, officers walked the suspect a distance from the apartment, so he remained safe. Officers administered first aid to stop bleeding from lacerations the individual apparently sustained from the broken window.

The subsequent investigation appropriately determined that the two ECW applications were necessary to stop the suspect's immediate and active threat and battery of others. The force used by officers was reasonable and proportional based on the totality of the circumstances and the minimum amount of force for this situation.

[IMR-16-04] (Level 1 & 2 & 3 – ECWs – 40mm – Multiple Shows of Force – Resisted Handcuffing)

Multiple APD officers (inclusive of officers certified in crisis intervention) responded to multiple calls during an afternoon in March 2022 detailing a male (known to APD with a felony warrant for a sex crime) walking around while swinging a knife and threatening people. Officers devised a plan to attempt to interdict the suspect in a residential area as opposed to a nearby, busier commercial area, and supervisors designated officers with specific weapons and tasks in a force array involving lethal and less lethal options. Officers located the suspect in the residential area, identified themselves, and attempted to establish a dialogue with the person. However, the suspect continued walking away and did not communicate with officers. Eventually, he was told he was under arrest and not free to leave or continue walking away. The suspect eventually began running and, at times, came close to police officers. Citizens encountered along the way were told to enter/reenter their residences. At various points when the suspect was walking and running from the officers, officers' commands to stop and to drop the knife went unheeded. At various points during the foot pursuit, officers discharged ECWs five times and utilized other less lethal force. None of these discharges ever stopped the suspect. When officers converged closer to the suspect, the suspect slowed his flight, threw the knife to the ground with his right hand, and got down on the ground under his own power as ordered by officers. Officers began to handcuff the individual without any initial resistance. However, the suspect eventually began to resist the handcuffing. An appropriate level of physical force was utilized to keep the suspect still and move his arms into position to safely handcuff him. The suspect was transported to a hospital where he was evaluated, treated, and subsequently transported to the Prisoner Transportation Center and lodged.

The IAFD/EFIT investigation clearly articulated and investigated all of the separate uses of force and also noted the de-escalation efforts employed that did not have the desired outcomes with this suspect. The investigation also noted the officers' immediate cessation of force once the suspect discarded the knife and was no longer actively fleeing. IAFD appropriately concluded that the ECW applications were reasonable, appropriate, the minimal amount of force needed, and proportional based upon the totality of the circumstances, especially considering the areas and distance traversed by the suspect brandishing a knife.

[IMR-16-05] (Level 1 & 2 – ECWs – ECW Show of Force – Empty Hand Technique)

Just after midnight in March 2022, APD officers were flagged down by three victims of an aggravated assault involving a woman who had threatened them with a knife. After interviewing the victims and obtaining information to identify the woman, officers located the woman in short order sitting in the vehicle she was operating. The woman refused to comply with the directions provided by the officers and fled in her vehicle at a high rate of speed. Officers pursued the woman a short distance before she crashed into a fixed object. As officers exited their vehicle to approach her, the woman accelerated in the direction of the officers and fled southbound onto Interstate 25 with the officers in pursuit. Shortly thereafter, the suspect ran off the roadway into a ravine and her vehicle became disabled. Officers were able to discern that the suspect was still in the vehicle and yelling incoherently in defiance of officer instructions over the PA being made in both English and Spanish. A sergeant and a lieutenant on the scene eventually set up a force array and made their way in the darkness down the slope of the ravine to the woman's vehicle, with lethal and less lethal force options. When the woman refused to exit the vehicle and was observed to be still armed, officers deployed OC spray on two occasions. However, the irritant properties of the spray had no impact on the suspect. At this same time, the suspect began stabbing herself in the chest with her knife. An officer and a sergeant deployed one ECW application from each side of the vehicle to stop the self-injurious acts and take the suspect into custody. Still, neither application had the desired neuromuscular impact to incapacitate the suspect. At this point, another officer reached into the vehicle and was able to wrest control of the knife from the suspect, ending her suicide attempt. The officers then physically pulled the woman from the vehicle, where she was handcuffed without offering any significant resistance.

The IAFD/EFIT investigation appropriately found the ECW applications to be reasonable, appropriate, and proportional uses of force. The OC spray was more minimal use of force than the ECW applications, but it had already been deployed twice and was ineffective against this suspect. Thus, using ECW applications was the next available less lethal force that constituted minimal force at this particular time.

[IMR-16-06] (Level 1 – ECW Show of Force)

APD officers were called to a welfare check for a male individual suffering from multiple mental health disorders. The individual's mother alerted APD dispatch that she was concerned about her son because he was homeless and was not properly taking his medication. The officers approached the individual at the side of a busy street and were

calm and polite while checking on his welfare. His mother pulled up to the scene and told officers that her son had warrants (for his arrest). APD officers then verified the male subject had two felony warrants for aggravated assault with a deadly weapon and assault on a police officer.

The officers approached the subject to take him into custody for the felony warrants, and the subject became agitated and uncooperative. Specifically, he walked away and was raising his voice and rambling mostly incoherently. At times the subject was aggressive and threatening with his body language and tone. Several APD officers, including an APD supervisor, followed the subject as he walked from a front parking lot to an area behind a business establishment. The supervisor led the de-escalation attempts, spoke in a firm yet calm manner, and did a good job attempting to gain compliance from the subject. On several occasions, the subject bent over and picked up landscaping rocks in a threatening way as though he may throw them, and the supervisor unholstered his ECW and held it in a low-ready position. The efforts of the supervisor and officers lasted for more than 20 minutes. At one point, in response to the aggressive actions of the subject, the supervisor pointed his ECW as a Level 1 show of force.

The supervisor's patience and de-escalation attempt paid off, and eventually, the subject turned around and submitted to his arrest and handcuffing. The supervisor's actions are an excellent example for the officers present to emulate. A field lieutenant conducted an investigation and assembled the information necessary to reach reasonable conclusions about the appropriateness of the behaviors of APD officers involved in the event. In our opinion, the ECW show of force was objectively reasonable, necessary, proportional, the minimum amount of force necessary to effectuate the arrest, and in accordance with APD policy and the CASA.

[IMR-16-07] (Level 3 – OIS; Level 2 – ECW; Level 1 – Shows of Force)

In February 2022, APD officers were dispatched to meet with a private citizen who called 911 and reported seeing a vehicle they knew to have been stolen from their neighbor. The vehicle in question was a white pickup truck with certain distinctive attributes that led the caller to believe it was his neighbor's vehicle. Officers met with the 911 caller and owner (called to the scene by the 911 caller prior to the officer's arrival). The officers verified through APD records that on December 27, 2021, the vehicle in question was reported stolen from the owner's residence in Albuquerque. A male subject was seen passed out in the driver's seat, and the officers began to devise an approach plan to conduct a high-risk motor vehicle stop. They also requested an Air Support Unit respond to the area if the driver attempted to flee it.

As officers discussed their approach, the Air Support Unit alerted them that the stolen vehicle was on the move and was driven past the officers as the driver attempted to flee the area. Officers could not catch up to the vehicle, so an APD supervisor advised them to back off and allow the Air Support Unit to monitor the stolen vehicle's movements. This went on for approximately 20 minutes, during which time the suspect was making evasive movements to suggest he was aware of the continued police presence. However, none of the officers could position themselves to initiate a police pursuit as

delineated in APD policy. The Air Support Unit relayed many of the subject's actions that, at times, were described as reckless. There came the point when Air Support alerted officers in the area that the subject had abandoned the vehicle and had run into a motel parking lot.

Officers engaged the subject in the motel parking lot, where he had mounted a motorcycle and was making movements that were obviously meant to start the motorcycle. Based on the totality of circumstances, it was reasonable to believe the subject was attempting to flee the officers further. As the officers approached, the subject dropped the motorcycle and moved toward an apartment door. He then began to lunge at the door in an attempt to force his way into one of the motel rooms. One officer attempted to take custody of the subject by grabbing him from behind to control his movements. A second officer unholstered his ECW and gave several warnings for the subject to stop resisting. Almost simultaneously, the officer observed the subject with a handgun in his hand as the other officer continued to struggle with him. This officer deployed his ECW to subdue the subject, but it was ineffective because only one of the probes attached.

The subject broke free and began to run away toward the motel office and exit, which were in the same direction. An uninvolved male subject was standing near the doorway of the motel office. The officers reported that the subject raised his weapon toward his waist and looked back toward them. Two officers reported an immediate threat to them and others due to the subject's actions and his firearm possession. The two officers then utilized deadly force and the subject ultimately succumbed to his injuries. The resulting IAFD/EFIT investigation determined the ECW application was objectively reasonable, necessary, proportional, and the minimum amount of force necessary at the time the force was used.

[IMR-16-17] (Level 3 – ECW x3; Level 2 – 40mm Launcher and Empty Hand Takedown; ECW; Level 1 – Shows of Force x3)

Investigative Support Unit personnel were conducting surveillance and attempting to take custody of a subject who had felony warrants for a host of crimes, including receiving stolen property (stolen vehicle), fleeing, and attempting to elude a police officer, a felon in possession of a firearm, and aggravated battery on a police officer, among other crimes. During their investigation, detectives learned that the subject had been seen on a surveillance camera in possession of a firearm during one of his crimes.

Detectives observed the subject in a stolen vehicle that was parked within a mobile home complex. They devised a confinement plan to approach and take the subject into custody. As the detectives approached the subject, he began to run away through the mobile home community. The environment the detectives were operating in at the time influenced their decisions and was strongly factored into the decisions IAFD made as to the appropriateness of force that was used to take the subject into custody. The area where the subject ran was very confining, with many areas to hide and evade capture. A detective pulled his APD truck close behind the stolen vehicle the subject had driven to

the complex. This effectively blocked the stolen vehicle between the detective's vehicle and another vehicle parked next to a mobile home.

At one point, the subject was seen by a detective, and he quickly changed direction and began running along a trailer into a concealed area. The detective ordered the subject to stop, but the subject continued to run away. The detective discharged his 40 mm impact weapon at the subject, from behind, when he did not pose an immediate or imminent threat to him or any other person. The IAFD investigation into this use of force found the discharge of the 40 mm weapon out of policy, and the violation was referred to IAFD for investigation. The monitoring team concurs with the IAFD findings.

The subject continued to elude the officers, ultimately climbing atop the roof of a mobile home. Numerous commands were given to the subject to surrender, but he would not. The subject descended from the roof and escaped a second time. He returned to the stolen vehicle the officers originally saw him with, entered the vehicle, and started the engine. Officers ordered the subject to stop, but he immediately began ramming the vehicle forward and reversing into the APD vehicle and another vehicle to escape. The subject was able to maneuver the stolen vehicle to escape being boxed in, but only through the highly reckless operation of the vehicle.

The detectives, at this point, faced a complex set of circumstances that involved several APD policies and CASA paragraphs. A detective unholstered his ECW and discharged it at the suspect on three occasions while he was operating the stolen vehicle in a confined space between mobile homes. To be clear, continued de-escalation with this subject was not an option beyond completely disengaging and allowing the subject an avenue of escape onto residential streets. Those actions would have carried other risks. That said, this event evolved quickly, and detectives and their vehicles were in close proximity to the subject's reckless actions.

The detective discharged his ECW through the open driver's side window, striking the subject in his upper back. The discharge had little or no effect on the subject, who reversed the vehicle and quickly backed up. Another APD detective was maneuvering his assigned truck (already struck by the suspect) behind the subject, and the two vehicles collided, setting off the airbags in the truck. The detective energized the ECW a second time, temporarily incapacitating the subject who was behind the vehicle's steering wheel. A third detective opened the car door to extract the subject, but the subject put the vehicle back into drive and began to quickly move it forward, nearly striking the detective who was holding his arm. The first detective energized the ECW a third time, immobilizing the subject a second time. He told the other detective to engage the subject again, at which time he reopened the driver's side door and pulled the subject from the vehicle. Detectives performed an empty hand takedown and quickly handcuffed the subject.

Under these circumstances, IAFD/EFIT found the ECW deployments to be in policy. The monitoring team assessed the facts and circumstances against the applicable APD SOPs and CASA paragraphs and, based on the totality of circumstances of this specific event concur with the findings of IAFD. We balanced the restrictions of discharging an

ECW at a person operating a vehicle against the recklessness the subject displayed and the confined area the officers were operating in at the time.

[IMR-16-18] (Level 2 – 40mm Launcher; Level 1 – ECW Show of Force)

APD officers were dispatched to an aggravated assault call that a male had threatened a female with a knife while she sat in her car in a parking lot of an apartment complex. Officers met with the victim and established probable cause for an arrest of the subject. The officers approached the subject's apartment to talk with him, knocking on his door. The subject suddenly burst from inside, yelling at the officers and aggressively charging toward one officer. An officer unholstered his ECW and pointed it at the subject as a show force to stop the advance since they were in a closely confined space at the top of a staircase. For over an hour, officers attempted to communicate professionally with the subject and de-escalate his aggressive tone and demeanor. A subsequent non-ECW use of force occurred, followed by additional negotiations, eventually leading to the subject being taken into custody without further force.

A joint IAFD/EFIT investigation revealed by a preponderance of the evidence that the actions of the officers were within APD guidelines and SOPs. The monitoring team reviewed the case and agreed that based on the totality of circumstances the actions of the officers were objectively reasonable and compliant with APD SOPs and the CASA.

Observations and Comments

No discernible ECW trends have been noted this monitoring period.

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

See table below.

Compliance Technique / Passive Resistance

	In Compliance
IMR-16-01	N
IMR-16-02	Y
IMR-16-03	Y
IMR-16-04	Y
IMR-16-05	Y
IMR-16-06	Y
IMR-16-07	Y
IMR-16-17	Y
IMR-16-18	Y
Compliance %	89%

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

Recommendation for Paragraph 24:

4.7.11a: Reinforce training regarding the prohibition of utilizing ECWs on passively resistant subjects.

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

See table below.

**Verbal Commands Prior to
Deployment of Tasers**

	In Compliance
IMR-16-01	Y
IMR-16-02	Y
IMR-16-03	Y
IMR-16-04	Y
IMR-16-05	Y
IMR-16-06	Y
IMR-16-07	Y
IMR-16-17	Y
IMR-16-18	Y
Compliance %	100%

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

See table below.

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

	In Compliance
IMR-16-01	Y
IMR-16-02	Y
IMR-16-03	Y
IMR-16-04	Y
IMR-16-05	Y
IMR-16-06	Y
IMR-16-07	Y
IMR-16-17	Y
IMR-16-18	Y
Compliance %	100%

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**Continuous Cycling of ECWs**

	In Compliance
IMR-16-01	Y
IMR-16-02	Y
IMR-16-03	Y
IMR-16-04	Y
IMR-16-05	Y
IMR-16-06	Y
IMR-16-07	Y
IMR-16-17	Y
IMR-16-18	Y
Compliance %	100%

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **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-16-01	Y
IMR-16-02	Y
IMR-16-03	Y
IMR-16-04	Y
IMR-16-05	Y
IMR-16-06	Y
IMR-16-07	Y
IMR-16-17	Y
IMR-16-18	Y
Compliance %	100%

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

	In Compliance
IMR-16-01	N
IMR-16-02	Y
IMR-16-03	Y
IMR-16-04	Y
IMR-16-05	Y
IMR-16-06	Y
IMR-16-07	Y
IMR-16-17	Y
IMR-16-18	Y
Compliance %	89%

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

Recommendation for Paragraph 29:

4.7.16a: Same as the recommendation for Paragraph 24, reinforce the training regarding the prohibition of utilizing ECWs on passively resistant subjects.

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

Targeting Person’s Head, Neck, or Genitalia

	In Compliance
IMR-16-01	Y
IMR-16-02	Y
IMR-16-03	Y
IMR-16-04	Y
IMR-16-05	Y
IMR-16-06	Y
IMR-16-07	Y
IMR-16-17	Y
IMR-16-18	Y
Compliance %	100%

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-16-01	Y
IMR-16-02	Y
IMR-16-03	Y
IMR-16-04	Y
IMR-16-05	Y
IMR-16-06	Y
IMR-16-07	Y
IMR-16-17	Y
IMR-16-18	Y
Compliance %	100%

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.”

Methodology

Paragraph 33 requires APD officers to receive annual ECW certifications of physical competency; weapon retention; APD policy, including any policy changes; technology

changes; and scenario and judgment-based training. Taser 7 recertification was conducted during the monitoring period for IMR-16. This is year four in the AXON Taser recertification program requiring the firing of live cartridges. Once again, it required officers to conduct a proper function test. Only one officer had an accidental discharge while conducting the function test and it was determined that this was a lateral officer who was new to the Taser 7. Additional training with this officer was conducted until trainers were certain of his ability to perform as required. Of the active sworn officers required to attend the training, 99.6 percent have been certified (830 of 833).

Additional training began during this monitoring period. “Reality-Based Training” (RBT) consisted of scenarios where an officer had to demonstrate proper application of the Use of Force policy suite under realistic, stressful circumstances such as high-risk stops, subject management/restraint, handcuffing, de-escalation, use of on-body recording devices, issuing verbal commands, and demonstrating the request and use of assisting officers in response to high-risk encounters. Academy documentation shows that 38.7 percent attended this training (315 of 814). The remaining active officers are scheduled to attend during 2022, and any officers out on leave will be required to attend before returning to duty.

The Academy 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.

Results

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

Provision of Medical Attention

	In Compliance
IMR-16-01	N/A
IMR-16-02	Y
IMR-16-03	Y
IMR-16-04	Y
IMR-16-05	Y
IMR-16-06	N/A
IMR-16-07	Y
IMR-16-17	Y
IMR-16-18	N/A
Compliance %	100%

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

	In Compliance
IMR-16-01	N/A
IMR-16-02	Y
IMR-16-03	Y
IMR-16-04	Y
IMR-16-05	Y
IMR-16-06	N/A
IMR-16-07	Y
IMR-16-17	Y
IMR-16-18	N/A
Compliance %	100%

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

Paragraph 38: ECW Reporting

APD's commitment to the Performance Metrics Unit (PMU) remained stable during the IMR-16 monitoring period, which we view favorably since that commitment has been sustained for multiple monitoring periods.¹⁶ The support of PMU is benefiting APD's compliance efforts in various ways and contributes to the professionalization of its internal data analysis. During our May 2022 site visit, monitoring team members met with personnel responsible for the tasks delineated in Paragraphs 37 and 38.

We previously noted how PMU was leveraged to enhance the Force Review Board (FRB) and how it now captures votes regarding the appropriateness of force and investigations into that force when cases are presented. During presentations, the FRB must decipher the appropriateness of types of force (many times multiple types and applications) and officers (many times multiple officers) within each case it reviews. That task of disentangling the sometimes-complex nature of uses of force (assessing each application of force) was very challenging for the FRB when voting occurred during FRB meetings. With PMU, APD devised a way for FRB members to cast votes for each force

¹⁶ The culture of PMU is one of proactiveness, eager to self-identify areas of growth so they can provide legitimate value to the organization. PMU routinely self-reflects on its own work product and moves ahead on projects methodically and thoughtfully.

application within an incident electronically.¹⁷ During the IMR-16 monitoring period, the electronic casting of votes during FRB meetings was fully implemented and operationalized, becoming the standard business practice at the FRB. Additionally, during this monitoring period, APD operationalized a Secondary FRB (discussed in greater detail elsewhere in this report), and the electronic casting of votes is also being used there.

As noted, APD continued providing resources to PMU during this monitoring period, and the table of the organization now stands with the following titles and staffing levels:

- (1) Enlisted Commander
- (1) Civilian Deputy Director¹⁸
- (1) Civilian Manager
- (2) Senior Quality Assurance Auditors
- (7) Quality Assurance Auditor I
- (3) Vacant Quality Assurance Auditor I Positions¹⁹

Staffing increases have remained steady at PMU over the last several monitoring periods and will likely add substantial value across the organization.

In preparation for this report, the monitoring team requested course of business documentation reflecting the level to which APD organizes its effort to sustain its adherence to 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 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; 4) Copy of the updated APD Annual Use of Force Report that includes 2021 data, if available; 5) Up to date PMU Staffing table of the organization; 6) specific presentation materials that contribute to Reformstat meetings; and (7) Audit scorecards for any PMU reviews of data to identify any unreported uses of force. We reviewed the records APD provided and determined that APD has sustained its requirements for Paragraph 37 of the CASA and has maintained its Operational Compliance.

Previously, we provided recommendations for PMU to be proactive in their oversight of areas of potential risk, specifically, whether data existed for arrests of assault on police officers, resisting arrest, or other such offenses where there is not an accompanying use

¹⁷ This began as a pilot during IMR-15 and remained as the voting protocol through the end of this monitoring period. The approach taken by APD addressed a concern called out by the monitoring team years earlier and has increased the reliability of voting while also creating data collection efficiencies for APD.

¹⁸ The current PMU Deputy Director, with support from her staff and sworn APD supervisors, has created an organizational unit to be emulated by other law enforcement agencies.

¹⁹ The positions noted were vacant at the time of writing of this monitoring report, but have been approved to be filled by APD. Positions approved by the agency during the more recent monitoring periods have been filled on a consistent basis.

of force report. PMU was very receptive to this technical assistance and immediately understood the value of quickly self-identifying potential issues. We followed up with PMU during our May 2022 site visit and were impressed with the intended path forward with their pilot program. In IMR-14, PMU took initial steps toward conducting audits for reporting discrepancies in keeping with our recommendation. During this monitoring period, PMU launched a four-month pilot program to ensure they methodically approach the task by ensuring auditors had the baseline skills and knowledge to conduct these types of use of force audits. We reviewed the pilot scorecards that were generated for May through July 2022. The information was limited, but we were told that the program is being fine-tuned as they learn more as a team. The intent is to build new query capabilities within APD's computer-aided dispatch (CAD) system and to identify the top three calls for service and overlay data where someone was arrested for resisting arrest, yet there is no accompanying use of force report. As we have noted previously, the fact that PMU will be looking at these data is encouraging. We highly recommend that APD executives scrutinize the findings that PMU publishes in order to identify potential trends or issues. During the IMR-17 monitoring period, we will track the progress of PMU's efforts since we see implementing this risk mitigation effort as essential to sustainability efforts in the future.

PMU field inspections of Area Commands and investigative and Special Operations units continued throughout the IMR-16 reporting period. Data we reviewed demonstrated that audits continue to be a routine part of PMU's business process.²⁰ 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 Field Services Bureau command rebuttals for February 2022 through July 2022. These inspections allow PMU to measure compliance with CASA paragraphs focused on ECW, OBRD, APD firearms requirements, supervision, IA complaint forms, and requirements related to 72-hour extension requests during use of force investigations.²¹ 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.²²

PMU collects pre-determined data sets that measure compliance efforts across the different commands and generates "Scorecards" that are shared back to those commands. The broad areas being assessed receive color-coded percentage scores of "compliance" levels. That makes the reports quickly digestible, an important quality for a field supervisor. During the IMR-16 reporting period, we continued to see strong exchanges between Commanders and PMU when an Inspection Report notes gaps in

²⁰ In Smartsheet, PMU retains each data "proof" they use that can easily be referenced when conducting audits or peer reviews.

²¹ 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.

²² 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.

information or potential policy violations. Area Commanders have an opportunity to review and refute PMU findings. We continue to see 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. The rebuttals we reviewed where verifiable data was submitted were professional and thoughtful. In the past, we commented on the type of rebuttals PMU receives from the field. Some rebuttals were no more than excuses, or the supervisor's review of the circumstances was underdeveloped. It is with these type of rebuttals APD should focus energy on since there is no value in excuses from an auditing perspective. Any supervisor's reliance on excuses (which we have commented on in the past) does not help with PMU or the monitor's audit findings.²³ We know that Commanders receive final PMU determinations, so it is incumbent on APD executives to reinforce across the organization the need to adhere to the language within an SOP and not to accept or advance excuses. Now that PMU audits are an ingrained practice, the monitoring team has seen an increase in overall compliance regarding the proper downloading of OBRD and ECW data. Consequently, squads and units across the organization that fail to adhere to SOP on a routine basis become easier to isolate. As APD's compliance rates rise, its response to the data PMU reports must be swift and purposeful when any squad or unit is failing in its responsibilities. This becomes particularly important as Operational Compliance determinations increase across the organization. The proper handling of accountability will reduce instances of non-compliance later when sustained compliance determinations are being made. PMU data collection must be properly operationalized from an accountability perspective to be useful. We will focus on this point during our ongoing conversations with PMU during the IMR-17 monitoring period.

With respect to Paragraph 38, the monitoring team requested course of business documentation that demonstrated provisions within the paragraph had been met. During past monitoring periods, APD published its final Annual Use of Force Report inclusive of the years 2016-2019, and 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. 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 to an updated the Annual Report, but as of the close of IMR-16 the report was not complete. In IMR-15, we commented that it was not unusual for the 2021 use of force data to take time to assemble into an updated Annual Report, since that monitoring period closed only a month into 2022. The fact that APD still has not submitted its 2021 Annual Use of Force report, in either preliminary or final status at this point is concerning to the monitoring

²³ In one such instance, a supervisor's rebuttal as to whether an officer properly downloaded their OBRD before the end of the next subsequent shift went into detail. He "attested" to the officer setting their OBRD for downloading purposes, however, the supervisor's rebuttal incorrectly listed the next shift the officer worked. Consequently, PMU rejected the rebuttal and a non-compliance finding stood in the report.

team. However, based on our discussions with APD, we note that APD's plan is that during the IMR-17 monitoring period, we will be provided with the 2021 Use of Force Annual Report. We note that EFIT has been contracted to address the backlog investigations and began its work in IMR-16. As the pending backlog cases are completed, APD will be expected to reassess the Annual Report for final status.²⁴

APD published its Preliminary 2020 Annual Use of Force Report during the IMR-14 reporting period; thus they attained Secondary Compliance with Paragraph 38. The monitoring team has learned that a draft of the 2021 Annual Use of Force is circulating and will be provided during the IMR-17 monitoring period. 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:

“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

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

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

²⁴ At the close of the monitoring period the City and DOJ 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.

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

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

Recommendation for Paragraph 38:

4.7.25a: Operationalize the PEMS 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.

4.7.25b: Complete and submit the Annual Use of Force Report for 2021 and update any preliminary reports for the preceding years.

4.7.24-5c: Build business processes and monitor investigative and field commands that consistently or intermittently score below standards for OBRD and ECW requirements for Paragraphs 37 and 38. Data monitoring should isolate squads and commands that may be impacting compliance rates and identify whether personnel reporting to specific supervisors and commanders are demonstrating patterns of non-compliance.

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 IMR-15, 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 reports.²⁵

As in the past, members of the monitoring team met with ERT command personnel during our May 2022 site visit to discuss ERT-centric issues. ERT came prepared for the meeting and provided a PowerPoint presentation outlining its efforts to address specific feedback from IMR-15. In addition, IMR-16 data requests were made to obtain

²⁵ The three stages of training are described in detail in IMR-15.

training records, ERT policy, Event/Incident Action Plans (EIP/IAP), and After-Action Reports (AAR) that were completed during the monitoring period.

ERT SOP 2-35 was approved by the monitor, became effective June 20, 2022, and is due for review on June 20, 2023. In IMR-15, we noted that APD indicated that within the updated SOP, a provision would be included that IAFD would commit personnel to attend ERT callouts to ensure timely use of force investigation. The updated policy contained that provision at SOP 2-35-6-E-1-f. Previously, we suggested that since APD's Academy is required to provide crowd-control centric training on an annual basis to maintain training requirements in Paragraph 87. Further, ERT and Academy personnel should coordinate their 2022 training efforts once the new SOP is approved to address any new provisions as the agency moves forward.

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

During this monitoring period, we were provided a lesson plan, "Incident Management Supervisor Training," developed by the APD Academy. Early in the monitoring period, we expressed concern that APD was shifting heavily toward video training programs delivered through their learning management system in lieu of in-person training. We were assured that when completed, the 2022 catalog of training would reflect APD's commitment to training through a variety of delivery methods, and this in-person, 4-hour training will prepare APD supervisors to manage their on-scene responsibilities when a SOD response was not warranted. The training was designed with group exercises and would be held at the APD Academy. The materials we reviewed were well organized and thoughtful, reflecting the needs of a wide array of APD supervisors that may be called upon to manage a critical incident. On April 28, 2022, Special Order 22-52 was issued, requiring all APD supervisors to attend the training, which would be held between July 13 and September 9, 2022. At the close of this monitoring period, APD assessed the progress of the training, and we reviewed a course of business status memo dated July 28, 2022, which indicated that (at the time) approximately 25% of APD supervisors had already attended the training. The monitoring team will collect closeout data to verify proper attendance for the training at that time. When completed, this training will fulfill APD's requirement to train APD supervisors in "incident" management as per Paragraph 88c of the CASA.

The APD Academy delivered the "Field Response to Demonstrations and Civil Disturbances" training through its on-line learning management system (LMS). Special Order 22-19 was issued on March 3, 2022, requiring all APD personnel to attend the training within 60 days. This is the same training program previously approved by the monitoring team during IMR-15 that met the requirements of CASA Paragraphs 86 and 87g. We typically would not approve the delivery of the exact training in successive years to meet the same CASA provisions. That said, this training was very well organized when first reviewed, and the information is still relevant, so revisiting it to reinforce the materials one time was good practice. When coupled with many other training requirements the new Academy leadership was left to address, we agreed with APD's Academy that the delivery of this program for 2022 CASA requirements would

suffice with the expectation that a new program would be developed for 2023. We reviewed a closeout memo dated July 27, 2022, wherein APD reported that of 847 sworn personnel available (i.e., not on approved and extended leaves of absence), 100% successfully completed the online training, including pre- and post-testing. During our November 2022 site visit, we will discuss with ERT and the Academy the plans to update the training materials for 2023.

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 more rapidly disseminate lessons learned from deployments. During the monitoring period, ERT issued three (3) Newsletters, which we reviewed and found to be consistent with past editions.

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 and tracking routine training programs, in particular quarterly training sessions. We reviewed "lesson plans" submitted for two quarterly training sessions that resembled agendas, not lesson plans. Based on our review of the data provided, the materials assembled by ERT before, during, and after the quarterly training programs leave ERT Commanders vulnerable and less capable of describing with any detail, or defending, what ERT officers were specifically trained during the quarterly sessions, if questioned in the future.²⁶ This causes an area of risk to the agency that could easily be remedied by following technical assistance the monitoring team has provided in the past. We will again discuss this with APD's ERT during our November 2022 site visit.

The monitoring team requested that APD provide documentation for any mobilizations to mass gatherings during the IMR-16 monitoring period and were provided Emergency Action Plans and After-Action Reports for five separate and distinct activations that occurred on May 3, May 7, June 24-26, July 7, and July 14, 2022. We found the reports to be well organized, detailed, and appropriate for compliance with Paragraph 40.

We have determined that APD remains in Operational Compliance for Paragraphs 39 through 40. We continue to recommend that ERT develop and deliver ongoing ERT training in conjunction with the Academy since the coordination of the ERT training will also benefit Academy-centric responsibilities in Paragraphs 86-88. The ERT requirement in these paragraphs for policy maintenance, training, and after-action reviews is an ongoing requirement. Now that Operational Compliance has been achieved, it is important for ERT to be diligent in retaining that compliance level.

²⁶ Organizationally, this presents a problem in instances where officers responsible for training move on from the unit or the department. Likewise, memories fade with time so the quality of training records is essential. This is also important for remedial or when delivering make-up training sessions for officers that missed training to ensure that all officers received the same information with the same quality of delivery.

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.”**

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**

Monitor’s Note:

APD must continue to develop and deliver a meaningful training program to its ERT and Field Services members. That training should be centered on crowd control policies. Further, the training should include scenarios, practical exercises, and lessons learned from previous APD responses to events. Training must meet the instructional objectives

documented within APD lesson plans. Training should incorporate lessons learned from recent ERT activations and contemplate best practices developed by other police agencies facing similar social unrest across the country.

Further, ERT should enhance the quality of its quarterly training program by working with the Academy to draw training materials more in alignment with Academy standards. APD will need to develop updated training for 2023 to retain its Operational Compliance standing with Paragraphs 86 and 87g.

APD must continue to ensure its After-Action Reports follow a standard structure and include mechanisms for communicating needed revisions to policy, training, or operational rubric within the agency.

Further, the agency should continue to take recommendations made from After-Action reporting and follow a logical and repetitive cycle wherein APD can demonstrate it adequately “closes the loop” on lessons learned.

ERT should continue to work with SOD to create routine multi-disciplinary training.

4.7.28 – 4.7.46 Assessing Compliance with Paragraphs 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 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 is 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-16 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. We also provided ideas suggesting how these issues could best be addressed moving forward. During the 16th reporting period, we have seen examples of our technical assistance being implemented in certain areas and a continued improvement in the overall handling of use of force incidents.

Case reviews and cursory checks of use of force reviews and investigations conducted by APD were the monitoring team's focus for paragraphs 41-59. The data 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 to determine if APD is properly administering its IA oversight functions. During the IMR-16 reporting period, APD's tracking data indicate that IAFD issued 154 requests for IA reviews 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)
IMR-10	241 ¹	²	54 ²	295	263
IMR-11	241 ¹	²	40 ²	281	404
IMR-12	173	232	79	484	534
IMR-13	111	244	54	409	424
IMR-14	116	216	91	423	199
IMR-15	79	169	43	291	90
IMR-16	83	161	51	295	154

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

² 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.

Since APD has changed the way it records requests for misconduct investigations associated with use of force reviews and investigations, more details are available for internal analysis. Also, 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 83 Level 1 use of force cases for supervisory review. In contrast, APD opened 79 Level 1 use of force cases for supervisory review during IMR-15, 116 Level 1 use of force cases for supervisory review during IMR-14, 111 new cases during IMR-13, and 173 supervisory use of force reviews during IMR-12.

In this reporting period, evidence revealed that APD continues to struggle with completing supervisory force reviews within 72 hours. Additionally, APD supervisory and command personnel still struggle to complete their reviews of Level 1 use of force reviews within the allotted 30-day time period, although APD had better success during this monitoring period.²⁷

In IMR-12, IMR-13, and IMR-14, several cases in each reporting period 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 cases²⁸ exceeded 60 days. However, a few Level 1 Use of Force cases completed during IMR-15 (but actually occurring before IMR-15) exceeded 60 days for the investigations. No case completed during IMR-15 exceeded 100 days. In IMR-16, the amount of time it took APD to complete the 83 Level 1 use of force cases it opened for supervisory review ranged between 13 and 87 days. Ten of the cases completed exceeded 30 days, with four of these cases exceeding 80 days. Seventy of the 83 cases were completed within 30 days, although four of these 70 cases were at the 30-day mark.

During the IMR-16 reporting period, APD also completed cases that originated during the IMR-15 reporting period²⁹. Thus, APD completed a total of 88 Level 1 cases when including cases from the previous monitoring period. Fifteen of these 88 cases exceeded 30 days, equating to 83 percent of the cases being completed within the 30-day time limit. During IMR-15, APD completed 71 cases (regardless of when they were opened), 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 was a substantial improvement over the fourteenth and thirteenth 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). These data indicate a clear trajectory. Use of

²⁷ 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).

²⁸ 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.

²⁹ Four of these cases exceeded 100 days.

force investigative timelines are on a negative trend line, which is a strong indication of better training, supervision, and executive oversight.

The monitoring team continues to provide extensive technical assistance and feedback to APD concerning the issues associated with their IA processes. This technical assistance, continuously provided since the onset of monitoring, increased substantially in January 2020 and has continued at high levels throughout the writing of this report. The feedback provided by the monitoring team encompassed briefings on best practices in internal affairs operations. It also included recommendations for improving existing internal processes to improve the timeliness of APD's use of force investigations and to address the disparity in discipline that exists by deferring disciplinary decisions to area commands. Based upon some of this technical assistance from the monitoring team and feedback from DOJ, it is important to note that APD has developed a proposal for a pilot program to change the way it handles Level 1 use of force cases. This initiative, which commenced in August 2022, will utilize a dedicated group of APD personnel to conduct Level 1 reviews. The monitoring team will review the data from this initiative during IMR-17.

As the table below indicates, during the first three months (February through April) of the reporting period, 44 supervisory reviews were initiated, and 89 percent of them (39 cases) were completed within 30 days. This is very similar data to the first three months of IMR-15 when 42 supervisory reviews were initiated and 90 percent of them (38 cases) were completed within 30 days. This is very encouraging data regarding completion rates and the stabilization of use of force events.

This analysis provides a snapshot of how APD continues to improve in completing these investigations in a timelier manner. See Table 4.7.28b below.

Table 4.7.28b: Timely Investigations of Supervisory Level 1 Use of Force Investigations for IMR-16

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-16	44	39 (89%)	83	70 (84%)
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%)

Thus, this represents progress in the area of completing Level 1 UoF reviews, which in the past has been elusive for APD. APD should identify specific patterns or people

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 May 2022 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 outlined 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 which 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-16-08] (Level 1 – Show of Force – Handgun)

APD officers responded during daylight hours to a March 2022 call from a property manager about persons allegedly illegally occupying a vacant apartment. Upon arrival, officers entered the apartment complex after speaking to a person outside of the complex. Upon exiting a stairwell on the third floor of the complex, two officers were faced with a male walking toward them, and behind him was a man who rounded a corner in the hallway with a handgun in his hand. Both officers drew and pointed their handguns at the man with the handgun (and potentially at the man between the officers and the man) and gave appropriate verbal commands for both men to stop and get on the ground. Additional commands were given to the man with a handgun. This man, eventually identified as an un-uniformed security officer working for the apartment complex, placed his handgun on the ground out of his reach.

Investigation at the scene revealed at least two males were occupying an apartment not leased to them. When confronted by the security officer, a physical altercation occurred. Apartment management asked that the two individuals be formally notified that they were no longer permitted on the private property. Officers recorded information to forward to the District Attorney in case either the security officer or the two males wished to sign their own complaints for battery.

An acting sergeant responded to the scene. The two officers did not initially think they pointed their firearms at the involved persons, recalling they drew their firearms and maintained a low-ready position with the weapons. The supervisor reviewed their OBRD video and appropriately opined that the firearms were indeed pointed at the subjects and initiated a Level 1 review. The review determined the officers acted appropriately and de-escalated as needed. A command review of the supervisory review determined the acting sergeant failed to read Miranda rights to the two persons occupying the apartment or the security officer. A training referral was made for retraining the acting sergeant. A referral was also made for APD to review the language of the policy guiding issuing

Miranda to people who are not detained, in custody, or under arrest and reconciling it with training provided to acting sergeants filling out the use of force forms.

The monitoring team determined that the officers' shows of force were objectively reasonable and proportionate based on being faced with someone armed with a handgun.

[IMR-16-09] (Level 1 – Resisted Handcuffing)

APD officers responded during a morning in March 2022 to a caller's complaint at an apartment complex that a male was making threatening actions with a knife and acting irrationally. Upon arrival, officers spoke with the rental office manager, who said the male threatened her and that she would press charges against him. Officers moved towards the male's apartment. The male was standing outside the apartment, and officers initiated a conversation with him from a safe distance. The male appeared very agitated, shouting at and threatening the officers, stating, "I'm gonna shoot all of you." After slamming the door to his apartment, the male walked quickly toward the officers. Once he got close to the officers, they put their hands on him and turned him around so he could be handcuffed. When attempting to handcuff him, the male kept his hands in front of his body, and the officers had to use moderate force to move his arms behind his back so he could be properly handcuffed. The male seemed to be trying not to walk with the officers towards a police vehicle, and when the officers got to the door of a police car, despite the officers' requests, the male refused to enter the vehicle and tensed up. Officers had to position the male in the opening of the door and physically push him into the right rear seat of the vehicle so they could close the vehicle's door.

Officers called for animal control to come to the scene to take custody of a dog in the male's apartment.

While seated in the vehicle by himself, loud banging could be heard from inside the vehicle. An officer told the male to calm down, and then an officer could be heard telling him that if he continued to bang his head, the officers would place protective headgear on him. An officer can be heard saying she sees a welt on his head and then calls for an ambulance. Medical personnel subsequently arrived at the scene, officers removed the male's handcuffs, and medical personnel checked his physical condition. The male calmed down and agreed to let officers drive him to a hospital. The handcuffs were placed back on the subject, and he was transported to a hospital where he was medically cleared and lodged on criminal charges.

The monitoring team determined that the officers' uses of force to overcome the subject's resistance to being handcuffed were objectively reasonable and proportionate. The supervisory review of officers' actions in this matter revealed OBRD violations and the failure to complete timely supplemental reports. Appropriate internal affairs requests were punctually submitted to address the violations, and investigations were completed to their logical conclusions.

[IMR-16-01] (Level 1 – ECW Show of Force)

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

During an evening in March 2022, APD officers responded to a burglary related to a potential domestic violence incident and took a report that the complainant's grandson had thrown a large rock through the sliding glass door, entered the apartment, and stolen some electronic equipment before fleeing. Officers observed the suspect arrive back at the residence with a backpack, where he became involved in a verbal altercation with a neighbor. When officers approached the suspect, he was told he was being detained as a result of the burglary investigation. The suspect was non-compliant with officers who had deployed with ECWs and a 40mm launcher. After successfully de-escalating the event, officers reached a stalemate. The suspect was no longer highly agitated. Still, he did not comply with orders to get on the ground and verbalized he would not be handcuffed. A sergeant arrived on the scene, who, in very short order, assessed the situation and advised the suspect he was under arrest. When the suspect voiced his non-compliance with submitting to arrest, the sergeant and another officer utilized their ECWs to laser paint the suspect, emit an audible sound (arcing), and warned that the subject would be tased if he continued to resist handcuffing efforts. The suspect went to his knees and appeared to lie down after hearing the arcing of the ECW. Two officers immediately moved in to handcuff the suspect without any further resistance.

The supervisory review deemed the ECW shows of force to be within policy as they constituted minimal force, and the force was necessary, reasonable, and proportional. The monitoring team notes that during the entire encounter, the suspect was offering only passive resistance that, pursuant to Paragraph 24 of the CASA³⁰, did not justify the actual deployment of an ECW. Thus, the monitoring team calls into question the appropriateness of pointing, painting, or arcing an ECW and/or providing the standard "Taser, Taser, Taser" warning given just prior to deploying an ECW application solely as a compliance technique to overcome only passive resistance in this property crime case when the actual deployment of the ECW would have been out of policy at the time of the shows of force. For this reason, the monitoring team deems this ECW show of force to not comply with the CASA because the show of force was not immediately necessary, reasonable, appropriate, or the lowest level of force to employ in this situation.

During a chain of command review, a lieutenant observed a potential unreported show of force with a 40mm launcher. The lieutenant appropriately initiated an Internal Affairs Request for the officer who failed to report the show of force with the 40mm weapon and for the sergeant who missed the potential show of force during the initial investigation. The subsequent additional use of force review appropriately determined the 40mm show of force was reasonable, necessary, proportional, and the minimal amount of force necessary to gain the suspect's compliance upon the officer's initial encounter with the suspect.

³⁰ The relevant part of Paragraph 24 states, "ECWs shall not be used solely as a compliance technique or to overcome passive resistance."

The internal investigation determined that the video evidence, coupled with witness statements, was inconclusive regarding whether or not an actual show of force occurred with the 40mm weapon. The monitoring team reviewed the video evidence and noted that their review of this evidence indicates that it is more likely than not (a preponderance of evidence) that the officer's 40mm weapon was not in a low-ready position during his approach to the scene and it was more likely than not that the weapon was pointing in the direction of the suspect. As part of the misconduct investigation, a firearms instructor was interviewed as a witness and asked questions about what officers are taught at the Academy about the "low-ready" position and shows of force with a weapon. As noted in the written misconduct investigation, the instructor answered, in part, "Officer stated APD SOP states a show of force is when the weapon covers the subject. Officer stated, so when we talk about low ready we kind of drift towards, down, but it would be the same thing to say, well, my muzzle is up, but I'm my muzzle is pointing three feet to the left of the subject. That is still good." This interpretation or perspective is not consistent with APD Academy curriculum reviewed by the monitoring team. Officers are not trained to have the muzzles of their weapons raised or pointed three feet to the left of a subject to avoid a show of force.

The misconduct investigation also established the fact that the investigating sergeant did indeed miss the potential show of force during their review. However, since the reporting of the show of force was not sustained, the sergeant was exonerated. The monitoring team does not concur with this finding. Notwithstanding the improper disposition of the allegation of the show of force with the 40mm weapon, the reviewing sergeant failed to identify the potential show of force pursuant to SOP 2-5 and was completely silent about it in his review and reports. Therefore, this reveals a deficient supervisory review of the use of force incident, and, at a minimum, the appropriate misconduct investigation disposition for the allegation of conducting the deficient investigation should have been sustained.

[IMR-16-10] (Level 1 – Resisted Handcuffing & Low-Level Control Tactics)

APD officers were dispatched to a motor vehicle accident. As the event evolved, they learned that one of the vehicles involved in the accident was likely tied to two additional hit-and-run accidents. Officers encountered a female driver (suspected of the hit-and-run accidents) and believed she might be under the influence of alcohol or drugs. While attempting to take her into custody, the driver became agitated and resisted arrest when the officers attempted to place handcuffs on her. During the event, three officers were required to use Level 1 force from when the female was placed in handcuffs to the point she was ultimately placed in the rear seat of a patrol car. Low-level control tactics were also used at different times to control her movements, both before she was handcuffed and as she was placed into the patrol vehicle. While the officers attempted to place the driver into the rear seat of the patrol vehicle, she braced herself to stop her movement so that she could argue with the police officers. Throughout the event, including as they were placing her into the patrol car, the officers attempted to de-escalate her behavior and convince her to cooperate. The conversation outside the patrol car continued for an extended period, and eventually, the officers used mild downward pressure to guide her into the back seat. In the process, the female's head struck the door frame as she was

sitting down. Two officers were on the side of the car with her, while a third officer entered the driver side of the vehicle and grabbed her left arm to pull her toward the seat. The actions of the officers were proportional to the resistance they were encountering.

This investigation was originally maintained in the field, but upon reviewing OBRD footage, a field supervisor contacted IAFD because the female struck her head while entering the patrol vehicle. Out of an abundance of caution, APD decided to handle this investigation as a Level 3 use of force (since the action happened while the female was handcuffed) and to have that potential force investigated by IAFD. The ensuing investigation determined, by a preponderance of evidence, that Level 3 force was not used. Instead, low-level control tactics were used to guide the female into the vehicle, and the monitoring team agrees. It is noteworthy to recognize that in years past, the actions of officers to pull the female into the vehicle, even subtly, which resulted in her striking her head, would be commonly missed by APD supervisors and investigators. It is encouraging to see that an APD supervisor and the underlying investigation into the use of force were identified first by APD and thoroughly investigated.

A review of OBRD footage revealed the driver to be uncooperative, agitated, and at times incoherent, while the officers maintained calm and professional demeanors. In our opinion, each of the uses of force, and low-level control tactics, were objectively reasonable, necessary, proportional, the minimum amount of force necessary to effectuate the arrest, and in accordance with APD policy and the CASA.

[IMR-16-06] (Level 1 – ECW Show of Force)

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

APD officers were called to a welfare check for a male subject suffering from multiple mental health disorders. The subject's mother alerted APD dispatch she was concerned about her son because he was homeless and was not taking his medication properly. The officers approached the subject at the side of a busy street and were calm and polite when checking on his welfare. The subject's mother pulled up to the scene and told them her son had warrants (for his arrest). APD officers then verified the male subject had two felony warrants for aggravated assault with a deadly weapon and assault on a police officer.

The officers approached the subject to take him into custody for the felony warrants, and the subject became agitated and uncooperative. The supervisor led the de-escalation attempts, spoke in a firm yet calm manner, and did a good job attempting to gain compliance from the subject. On several occasions, the subject bent over and picked up landscaping rocks in a threatening way as though he may throw them. The supervisor unholstered his ECW and held it in a low-ready position until eventually pointing his ECW as a Level 1 show of force.

The supervisor's patience and de-escalation attempt worked, and eventually the subject turned around and submitted to his arrest and being handcuffed. The supervisor's

actions stand as an excellent example for the officers present to emulate. A field lieutenant conducted an investigation and assembled the information necessary to reach reasonable conclusions about the appropriateness of APD officers involved in the event. In our opinion, the ECW show of force was objectively reasonable, necessary, proportional, the minimum amount of force necessary to effectuate the arrest, and in accordance with APD policy and the CASA.

[IMR-16-11] (Level 1 – Resisted Handcuffing)

APD officers responded to a domestic violence call at a residence. They spoke with a female victim there who described how her ex-boyfriend violently assaulted her, took her pocketbook, and stole her vehicle approximately 15 minutes prior to their arrival. The victim told the officers that she believed the ex-boyfriend was returning to the house at that time. Officers noted injuries to the victim and called EMS to the scene. While still at the scene, officers observed the suspect arrive back at the scene with the victim's vehicle. They confronted the suspect, who immediately became loud and agitated and refused to cooperate with instructions given to him by the two officers. There was a significant disparity in size between the two officers and the suspect, who was a large-framed male. One officer approached the suspect, told him that he was under arrest, and attempted to take hold of one of his arms. The subject pulled the arm back and began to walk away from the officers. The officers followed and gave numerous warnings and commands for the subject to stop, but the subject's behaviors continued. One officer appropriately unholstered her ECW into a low-ready position, continued providing warnings and directions, and alerted the subject that force may be used if he failed to cooperate.

After approximately 14 minutes, three additional officers arrived to assist. On his own, the suspect sat on a curb, and two officers who arrived to assist approached the individual, each taking control of one of his arms. The suspect braced himself and held his arms to his front, actively resisting the effort to pull his arms to the rear so he could be handcuffed. A third officer assisted in by pulling the suspect's hands apart, which allowed the two officers to pull his arms to the rear and handcuff him.

A supervisor responded to the scene and properly categorized the Level 1 force after consulting a member of IAFD.³¹ The case was reviewed through the chain of command, during which several policy violations were discovered at the lieutenant level, ranging from failure of the responding supervisor to activate their OBRD and officers failing to conduct a proper search of the suspect, and failing to identify themselves as police officers properly. Internal affairs referrals were made for each policy violation, and outcomes included a written reprimand for the supervisor and non-disciplinary corrective action for the officers. Under the circumstances, the oversight through the chain of command and resulting internal affairs results were appropriate.

³¹ The consultation occurred because following the arrest the subject claimed he was hurt. Upon further discussion the suspect complained of pain related to an injury that preexisted the force used by the officers.

A review of the case file and officer OBRDs was conducted by members of the monitoring team. In our opinion, the force used by the officers was objectively reasonable, necessary, proportional, and the minimum amount of force necessary. We do, however, note areas of improvement: (1) An officer documented warnings and orders in written reports as de-escalation attempts; Officers maintained a professional demeanor but were not effective in their de-escalation, meaning, they failed to use techniques of persuasion that have been trained by the Academy and instead relied heavily on commands and warnings; and (2) Officers' reports contained boilerplate language that should have been addressed during the supervisory review process.

[IMR-16-12] (Level 1 – Empty Hand Control & Resisted Handcuffing)

APD officers were called to a convenience store in response to a call for service. While talking with the manager of the establishment, a male subject (unrelated to the original call for service) entered the store and began walking toward an area where refrigerated items were located. The store manager told the officer that the subject was not allowed in the store because he is known to shoplift. The officer approached the subject and asked him to leave. Instead, the subject opened the refrigerator, took out a drink as though he was going to leave, and hid it behind his back. The officer told him to place the drink back, and at first, the subject refused. When told again, the subject returned the item to the refrigerator and began to walk past the police officer. The subject's appearance was disheveled, his movements were aggressive, and his verbal communication toward the officer was somewhat incoherent. As he walked past, the individual also made a threatening and disparaging comment toward the officer. The officer followed the subject out of the store and across the parking lot. While outside, the subject began to shout at the police officer and make menacing comments toward him. At one point, the subject aggressively marched in the direction of the police officer while making threatening statements and movements. The subject turned around and continued to walk across the parking lot, stopping at the perimeter of the property to pick up a rock, which he threw in the direction of the police officer. At that point, the officer called for assistance and continued to follow the subject as he walked down a sidewalk away from the business establishment.

The subject walked a considerable distance with the officer following behind at a safe distance as backup arrived. Toward the end of the encounter, a different officer pulled his patrol vehicle into the walking path of the subject to cut him off, with several other officers now near the subject on foot. As the vehicle pulled in front of the subject, one officer quickly approached the subject to go hands-on, and when he did, the subject swung his fist and struck the officer in the head area. Almost simultaneously, that officer took control of the subject's arm and braced him against the rear of the patrol car. The subject braced his body and arms and briefly resisted putting his hands behind his back. The subject, on his own, dropped to a seated position, and two additional officers assisted as the subject was handcuffed. Throughout the event, officers identified themselves and gave directions to the subject to which he did not comply.

An APD supervisor responded to the scene and properly categorized the actions of the officers as a Level 1 use of force and low-level control tactics. The monitoring team

reviewed the case file and OBRD from the event. In our opinion, the force used was objectively reasonable, necessary, proportional, and the minimum amount necessary to effectuate the arrest. We share two noteworthy observations: (1) In case reviews since the inception of this project we have noted many instances in which officers either park their vehicles distances from the location they are responding to or, as with this incident, allow themselves to be drawn long distances from their original location and away from their patrol vehicle. From an officer safety perspective, the monitoring team notes this as an area worthy of inspection by the department; and (2) The roadway area where the subject was taken into custody consisted of two lanes in each direction, separated by a center median. The subject and officers were walking on a sidewalk in the opposite direction of traffic. There was a moderate amount of traffic on the roadway traveling toward the officers and subject. The officer who drove the patrol vehicle (that cut off the subject) did so by driving the wrong way in traffic in the right lane closest to the sidewalk, with civilian vehicles passing him (traveling the correct direction in traffic in the inside lane). We saw this action as unnecessary under the circumstances and careless conduct at best. This officer-safety issue was neither called out nor addressed in any way during the supervisory or chain of command reviews.

Observations and Comments

As noted in the data presented in Paragraphs 60-77, Field Services supervisors continue, on occasion, to initially misclassify Level 2 uses of force as Level 1 uses of force. This ultimately impedes IAFD's mandated goal of completing cases assigned to them within 90 days. Thus, while IAFD may complete cases within 90 days of receiving the cases (after the misclassification is noticed by upper levels of Field Services supervisors and referred to IAFD), the resultant impact is that the cases are completed after 90 days of the date of the use of force occurrence.

Further, we are sensitive to the APOA's comments relating to issues of use of force during incidents of "passive resistance." The APOA correctly identifies the Hobson's Choice nature of some uses of force—a choice the monitor had faced often as a sworn officer—as have most members of the monitoring team. The use of a "totality of the circumstances" approach to assessments made by the monitoring team related to use of force are uniformly made by the monitoring team members who have former experience as police officers, and who have made hard decisions based on difficult facts.

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: **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: **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: **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. Failing to upload OBRD footage within the required timeline is a performance violation. These distinct OBRD violations will not be compounded when factoring in progressive discipline.

During IMR-16, 109 cases were referred for investigation with a potential 124 violations of SOP 2-8. Of these, 70 were closed. 52 were sustained, and two incidents resulted in recommendations for suspension³².

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

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 implementing 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 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 will increase. Of the 70 closed cases referred for investigation, 52 were sustained, and two resulted in a recommended suspension. With changes to policy, the disciplinary matrix, and the supervisory training that occurred during this monitoring period, it would be difficult to compare results to prior reports.

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**

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

³² Records may contain more than one allegation, or more than one officer involved.

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 supervisors' Level 1 Use of Force investigations. 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 commander 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. An audit determined that supervisors were not properly documenting failures to conduct force investigations in their performance evaluations. APD submitted a supervisory training program to ensure all requirements were met, which was approved by the monitor. The PEMS unit will develop an audit process to analyze the number of deficient use of force investigations compared to the number of investigations completed by the supervisor. Once the training has been provided, and this becomes a routine/automated process with appropriate responses by supervisory and commands 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: Complete the approved training.

4.7.34b: Document the proposed audit process through PEMS and ensure that assessments are timely, accurate, and reliable.

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: **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: **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: **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: **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-six (56) APD Use of Force APD files for the time period February 1, 2022, through July 31, 2022, as it pertains to the initial portion of this paragraph (72-hour requirement).

APD has achieved 98.21% compliance 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 (53 of the 56 reviewed required extensions). Commanders continue to grant extensions with stipulated timeframes depending on the circumstances for completion and continue to request more detailed reasoning to accept requests and approve extensions. One case [IMR-16-23] of the fifty-six cases reviewed by the monitoring team indicated the date of incident March 21, 2022, and a request for extension on March 31, 2022. However, the case was not received by the commander until April 5, 2022, in violation of the 72-hour rule. Another case's [IMR-16-24] date of incident was April 21, 2022; the proper request was made on April 24, 2022. However, due to the commander's computer having been infected with malware, an approval for extension was not granted until April 29, 2002. APD supplied documentation to support the issue with the commander's computer, and the monitoring team deems this incident in 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: **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: **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: **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

Only 84% of Supervisory use of force (Level 1) cases were completed within the 30-day timeline. This is not a deficiency of the Performance Review Unit, but instead, it reflects on supervisory process.

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: **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 detailed failure analyses to determine the issues causing non-compliance.

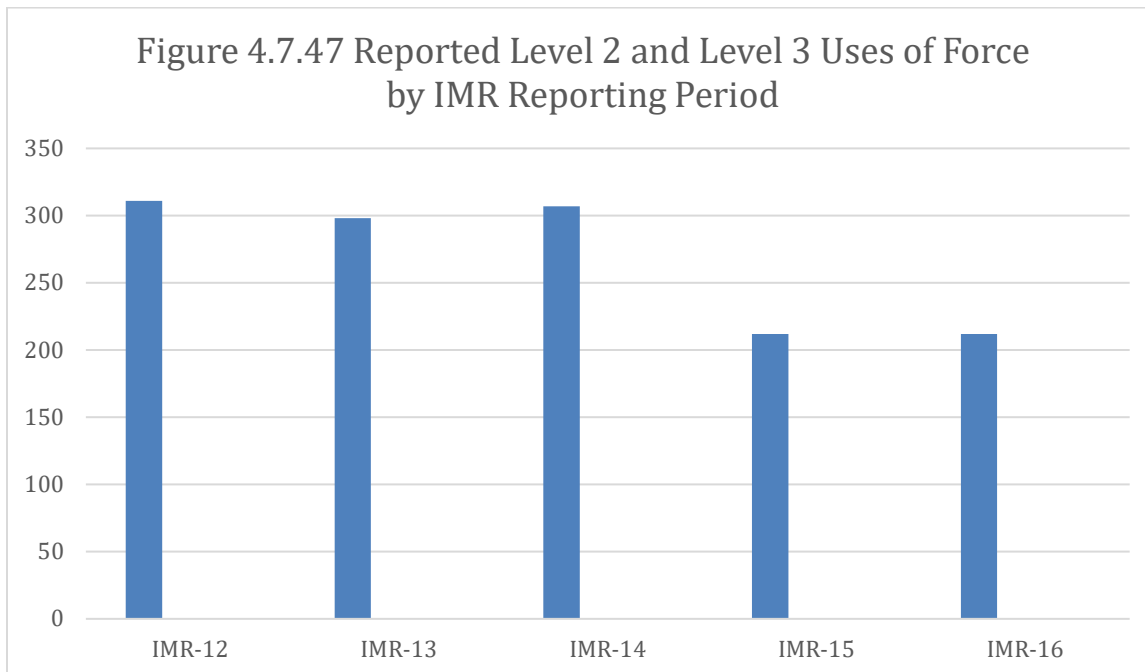
4.7.45c: Consider modeling IAFD/EFIT practices and process regarding use of force investigative processes while adhering to CASA timelines.

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

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, 2021³³. 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 take cognizance of the significantly 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 this reporting period.

During IMR-16 (data current through August 2022), APD recorded a combined 212 Level 2 and Level 3 use of force cases: the same number of cases as in IMR-15. This continues to constitute a significant reduction in the more serious levels of use of force observed in IMRs 12 through 14. Figure 4.7.47 below depicts the numbers of Level 2 and Level 3 cases generated by APD during the IMR-12 through IMR-16 reporting periods. These data indicate a significant reduction in the levels of more serious uses of force by APD over a five-year period. Data for the five-years indicate that for the IMR 12-14 reporting periods, the number of uses of force held relatively steady between 298-311 uses of force. The number of reported uses of force by APD personnel decreased significantly, dropping by 95 cases to 212 uses of force by APD personnel in the 15th and 16th reporting periods, compared to 307 uses of force in the 14th reporting period. This continues to be a welcome change to the earlier data which held steady in the 300+ range.



We consider these numbers significant. Reported level 2 and level 3 uses of force for IMR-16 are down 31.8 percent since the monitor's 12th report.

³³ The fourteenth monitoring period ended on July 31, 2021.

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 have generated completed case rates that are excellent and which meet or exceed the goals established by the CASA.

During this monitoring period, APD and the External Force Investigation Team (EFIT) have maintained their reversal of the previous, problematic long-term trend in completing Level 2 and 3 UoF cases. IAFD, working alongside the EFIT, completed 151 Level 2 cases, with 148 of the cases being completed within 90 days of the use of force. The three cases not completed within 90 days were misclassified initially by Field Services personnel, which contributed to the cases not being completed within 90 days of the occurrence of the use of force. This is addressed in Paragraph 50.

At the close of the 16th monitoring period, IAFD completed 81 of the 161 Level 2 use of force cases opened during the 16th monitoring period. There were still 80 cases that were opened during the monitoring period that had not been completed. These cases will be examined during the 17th reporting period. It should be noted that at the close of IMR-15, there were still 68 open Level 2 cases (cases that were opened during IMR-15 and not completed during that monitoring period). The monitoring team reviewed those 68 open cases during IMR-16 and noted that 66 of the cases were closed within 90 days. The two cases that were not closed within 90 days were closed at 92 and 101 days, respectively. While IAFD closed the cases within 90 days of receiving them, classification errors made by Field Services personnel contributed to the cases not being completed within 90 days of the occurrence of the use of force.

The same holds true for Level 3 UoF cases. During this monitoring period, EFIT and APD completed 37 Level 3 cases with 36 of the cases completed within 90 days of the use of force. One case was not completed within 90 days of the use of force due to being misclassified initially by Field Services personnel. This is addressed pursuant to Paragraph 50. We note that at the close of the 16th monitoring period, IAFD completed 26 of the 51 Level 3 use of force cases opened during the 16th monitoring period. There were still 25 cases that were opened during the monitoring period that had not been completed. These cases will be examined during the 17th reporting period. It should be noted that at the close of IMR-15, there were still 13 Level 3 cases that were still open (cases that were opened during IMR-15 and not completed during that monitoring period). The monitoring team reviewed those 13 open cases during IMR-16 and noted that all 13 of the cases were closed within 90 days.

These data are shown in tabular form in Table 4.7.47a.

Table 4.7.47a Timely Investigations of
Level 2 Use of Force Investigations: IMR-12 / IMR-13 / IMR-14 / IMR-15 / IMR-16

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-16	79	79 (100%) ³⁴	161	81 (50%) ³⁵
IMR-15	99	97 (98%) ³⁶	169	101 (60%) ³⁷
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%)

Table 4.7.47b Timely Investigations of
Level 3 Use of Force Investigations: IMR-12 / IMR-13 / IMR-14 / IMR-15 / IMR-16

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-16	26	26 (100%) ³⁸	51	26 (49%) ³⁹
IMR-15	30	30 (100%)	43	30 (80%) ⁴⁰
IMR-14	42	0 (0%)	91	0 (0%)
IMR-13	37	2 (5%)	54	2 (4%)
IMR-12	25	21 (84%)	79	24 (30%)

³⁴ IAFD closed one case within 90 days of receiving the case, but a classification error made by Field Services personnel contributed to the case not being completed within 90 days of the occurrence of the use of force. This is addressed pursuant to Paragraph 50.

³⁵ IAFD completed a total of 151 cases during IMR-16 (regardless of when the case was opened) and 148 were closed within 90 days. The three cases not completed within 90 days were misclassified initially by Field Services personnel, which contributed to the cases not being completed within 90 days of the occurrence of the use of force. This is addressed pursuant to Paragraph 50.

³⁶ 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.

³⁷ 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.

³⁸ IAFD closed one case within 90 days of receiving the case, but a classification error made by Field Services personnel contributed to the case not being completed within 90 days of the occurrence of the use of force. This is addressed pursuant to Paragraph 50.

³⁹ IAFD completed a total of 37 cases during IMR-16 (regardless of when the case was opened).

⁴⁰ 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.

As noted, evidence reveals that problematic productivity levels from earlier monitoring periods have completely reversed and are now headed in the right direction. We are aware that this reversal was achieved with external assistance provided by EFIT. Nonetheless, progress made during IMR-15 has been maintained 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 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 (and staffing) 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 force investigation cases falls once again on APD.

In the IMR-14 reporting period, the monitoring team noted the growth of backlogged Level 2 and Level 3⁴¹ cases and the lack of progress in completing those cases. During this monitoring period, the Stipulated Order approved by the Court in 2021 was amended to authorize a secondary EFIT team to address these backlogged Level 2 and Level 3 cases. EFIT-2 (the team designated to handle these backlogged cases) was operationalized during the latter part of the 16th monitoring period. At the close of the monitoring period, approximately two percent of the backlogged cases had been closed⁴². The monitoring team will report on the progress of EFIT-2 during IMR-17 when more backlogged cases are available for review.

For the IMR-16 reporting period, the monitoring team reviewed 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 IAFD investigated instead of field supervisors. In the cases reviewed for this report section, the field supervisors generally identified the correct 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-16-02] (Level 2 – ECW Application & Takedown)

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

APD officers responded during daylight hours to an April 2022 call from City code enforcement officials needing assistance to clear persons from a residence reclaimed by the City after it was deemed substandard. Uniformed officers arrived and made numerous public safety announcements for any occupants to exit the residence. After no persons responded to the announcements, officers entered the residence with no

⁴¹ The backlogged caseload has been reported to be as high as 667 cases at one time during IMR-15.

⁴² EFIT-2 follows a reviewed and approved methodology that dictates how cases will be handled and reviewed.

electric or running water and found four adults (two males and two females). Officers used time to their advantage to initiate and engage in calm discussions to resolve the issue, despite numerous threats to resist and not obey the officers' commands. When officers told one of the males he was under arrest for criminal trespassing and obstructing officers, officers attempted to grab his wrists, but the male pulled away and backed up. After one officer moved inside the doorway of the room occupied by the four persons, he asked one of the females to retrieve clothes for the male, who was advised he was under arrest. When the officer followed the female down a hallway to ensure the safety of officers, one of the males lunged at the officer and struck him. The other male became involved in the battery of the officers and they were told they would be tased. The physical struggle continued, and one of the males was tased once. The male fell into a wall and slid down onto the floor. The other male continued to push physically and strike officers, and an officer used minimal physical force to take that male to the ground and subdue him. While two officers attempted to handcuff this individual, the officers were attacked and bit by one of two dogs in the residence. The individual who was tased was eventually handcuffed, and both males were escorted from the residence. When the individual who had been tased began to bang his head in the rear seat of a police vehicle, officers placed padded headgear on him to protect his head and placed a Passive Restraint System on his ankles and wrists. Both males were taken to the hospital for evaluation (after resisting medical attention from paramedics who had been called to the scene by officers), medically cleared at the hospital, and subsequently transported to the Prisoner Transportation Center and lodged.

Despite officers utilizing appropriate tactics, de-escalation techniques, and crisis intervention language to reduce the individuals' stress levels, the officers had to resort to using multiple shows of force and one application of an ECW to control and arrest the males who had engaged in physical force in an attempt to stop the officers' lawful actions.

A supervisor was called to the scene due to the uses of force and accurately determined the case was a Level 2 use of force. IAFD/EFIT personnel responded and conducted an appropriate on-scene investigation. The monitoring team finds that the IAFD/EFIT investigation was thorough and objective. Supervisory oversight of the investigation appropriately pointed out minor issues in the investigation report that were corrected before the investigation was completed. The monitoring team determined that the officers' uses of force, including the single ECW application, were objectively reasonable, minimal, and proportionate based on the individuals' active resistance after committing battery on officers and attempting to obstruct their lawful objectives.

[IMR-16-03] (Level 2 – ECW Application)

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

APD officers responded in March 2022 to an apartment complex after receiving multiple calls just after midnight that an individual was breaking and entering into a residence and fighting with persons there at the scene. Upon arrival, officers observed a male (who had been identified as the perpetrator and who was in possession of a knife) on the

inside of a ground-floor apartment, reaching outside through a broken window and fighting with a male and female who were both outside. The suspect had grasped one of the individuals outside by the hair, and punches/strikes were being exchanged. The officers gave commands to stop fighting and to let go, or the suspect would be tased. However, the struggle continued as the suspect actively resisted the officers' commands to stop his battery. One of the officers with the clearest access to the male and the best view into the apartment discharged his ECW once, striking the suspect. The ECW did not appear to have the desired incapacitating effect. The officer continued to assess the situation and the suspect's proximity and movement in the apartment toward a resident and subsequently deployed a second ECW application. This application had the desired incapacitating effect on the suspect. The suspect was handcuffed without any other force employed by the officers.

A uniformed sergeant responded to the scene and accurately determined this to be a Level 2 use of force. The officer who discharged his ECW advised the sergeant that he failed to activate his OBRD prior to arriving and discharging his ECW. The IAFD/EFIT investigation identified this occurrence in their investigation and appropriately made an internal affairs request for this policy violation. The IAFD/EFIT investigation appropriately investigated the use of force and utilized another officer's OBRD footage to aid the investigation. The investigation appropriately determined that the two ECW applications were appropriate to stop the suspect's immediate and active threat and battery on others. The force used by officers was reasonable and proportional based on the totality of the circumstances and the minimum amount of force in this situation.

The internal investigation sustained a policy violation against the officer who failed to activate his OBRD. A verbal reprimand was the discipline imposed for this policy violation, which was within the discipline matrix.

[IMR-16-13] (Level 2 – Takedown)

APD officers responded to a call to a Home Depot regarding a serial shoplifter exiting the store with a shopping cart full of merchandise. Officers arrived and saw Home Depot personnel running after the shoplifter who was fleeing on foot and pointed him out to officers. Officers gave multiple verbal warnings over a vehicle's PA system that he must stop for the police and that he was under arrest. The suspect jumped a wall and ran through an automobile sales lot before jumping on the roof of a parked car so he could leap over another tall wall. The suspect leaped onto the wall, but two officers were able to grab him and pull him down before he could escape over the wall. Once the officers pulled him down, the suspect offered minimal resistance and was handcuffed without the utilization of further force. Officers immediately called for a supervisor due to the force employed and called paramedics to check on the suspect since he was lethargic and feeling weak. Officers kept the suspect under close watch until paramedics arrived. After being assessed, the suspect was transported by ambulance to a hospital, where he was cleared and lodged on criminal charges.

A responding supervisor correctly deemed the use of force to be a Level 2 use of force, and IAFD/EFIT was notified. The IAFD/EFIT investigation appropriately investigated the

use of force and determined the takedown of the suspect was necessary due to the subject's active resistance in fleeing and that the force used by officers was appropriate to stop the suspect's immediate flight. The force used by officers was appropriately deemed reasonable and proportional based on the totality of the circumstances and the minimum amount of force necessary to stop the fleeing suspect.

[IMR-16-04] (Level 1, 2, & 3 – 40MM – Multiple Shows of Force – Resisted Handcuffing)

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

Multiple APD officers (including officers certified in crisis intervention) responded to multiple calls during an afternoon in March 2022 detailing a male (known to APD to have a felony warrant for a sex crime) walking around while swinging a knife and threatening people. Officers devised a plan to attempt to interdict the suspect in a residential area as opposed to a nearby, busier commercial area, and supervisors designated officers with specific weapons and tasks in a force array involving lethal and less lethal options. Officers located the suspect in the residential area, identified themselves, and attempted to establish a dialogue with the person. Still, the suspect continued walking away and did not communicate with officers. Eventually, the suspect was told he was under arrest and not free to leave or continue walking away. The suspect eventually began running away and at times, came close to police officers. Citizens encountered along the way were told by police to enter/reenter their residences. At various points when the suspect was walking and running from the officers, officers' commands to stop and to drop the knife went unanswered by the suspect. At various points during the foot pursuit, officers displayed shows of force with a rifle. They discharged ECWs five times and fired six supervisory-ordered discharges of 40mm impact launchers to stop the suspect's flight. None of these discharges ever stopped the suspect. When officers converged closer to the suspect, the suspect slowed his flight, threw the knife to the ground with his right hand, and got down on the ground under his own power as ordered by officers. Officers began to handcuff the individual without any initial resistance. However, the suspect eventually began to resist the handcuffing. An appropriate level of physical force was used to keep the suspect still and move his arms into position to handcuff him safely. After paramedics arrived to assess the subject, multiple officers had to carry him to an APD vehicle and assist him in entering and sitting in the right rear of the vehicle. It should be noted that the suspect appeared to be experiencing a mental health crisis and was continuously shouting and screaming at various times during his interactions with officers. The suspect was transported to a hospital where he was evaluated, treated, and subsequently transported to the Prisoner Transportation Center and lodged.

Since sergeants were involved in ordering force and using force, a lieutenant responded to the scene (and eventually to the hospital) to conduct the on-scene supervisory review before notifying IAFD/EFIT. The IAFD/EFIT investigation clearly articulated and investigated all of the separate uses of force and noted the de-escalation efforts that did not have the desired outcomes with this suspect. The investigation also noted the officers' immediate cessation of force once the suspect discarded the knife and was no longer actively fleeing. After conducting numerous interviews and follow-up interviews

about applications of force, IAFD/EFIT appropriately concluded that the applications of force were reasonable, appropriate, the minimal amount of force needed, and proportionally based upon the totality of the circumstances, especially considering the areas and distance traversed by the suspect brandishing a knife.

[IMR-16-05] (Level 1 & 2 – ECW Show of Force – Empty Hand Technique)

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

Just after midnight, APD officers were flagged down by three victims of an aggravated assault involving a woman who threatened them with a knife. After interviewing the victims and obtaining information to identify the woman, officers located the woman sitting in the vehicle she was operating. The woman refused to comply with the directions provided by the officers and fled in her vehicle at a high rate of speed. Officers pursued the woman a short distance before she crashed into a fixed object. As officers exited their vehicle to approach her, the woman accelerated in the direction of the officers and fled southbound onto Interstate 25 with the officers in vehicle pursuit. Shortly thereafter, the suspect ran off the roadway into a ravine, and her vehicle became disabled. Officers could discern that the suspect was still in the vehicle and yelling incoherently in defiance of officer instructions over the PA being made in both English and Spanish. Officers determined that based upon her yelling, she was not seriously injured. A sergeant and a lieutenant on the scene eventually set up a force array and made their way in the darkness down the slope of the ravine to the suspect's vehicle, with lethal and less lethal force options at their command. When the woman refused to exit the vehicle, and she was observed to still be armed, officers deployed OC spray on two occasions, once into the suspect's face and once into the interior of the vehicle. However, the irritant properties of the spray had no impact on the suspect. At this same time, the suspect began stabbing herself in the chest with her knife. An officer and a sergeant deployed two ECW applications, one from each side of the vehicle, to stop the self-injurious acts and take the suspect into custody. Neither application had the desired neuromuscular impact to incapacitate the suspect. At this point, another officer reached into the vehicle and was able to wrest control of the knife from the suspect, ending her suicide attempt. Officers physically pulled the woman from the vehicle, where she was handcuffed without offering any significant resistance.

Officers verbalized that the suspect's breathing seemed compromised from the stab wounds to her upper chest, so they began to administer first aid to stabilize her breathing. Paramedics arrived on the scene, assessed the suspect, and officers assisted the suspect up the ravine to an ambulance, which eventually transported her to a hospital for treatment.

The IAFD/EFIT investigation appropriately found the ECW applications to be reasonable, appropriate, and proportional uses of force. The OC spray was a more minimal use of force, but it had already been deployed twice and was ineffective against this suspect. Thus, using ECW applications was the next available less lethal force that constituted minimal force at that particular time. While the IAFD/EFIT investigation reached

appropriate conclusions, the written quality of the investigation was marginally acceptable in the opinion of the monitoring team, as it contained numerous grammatical and spelling issues and could have been written more clearly with more articulation of details. IAFD/EFIT supervisory and command level reviews also noted problems with the quality of the investigation as written. This is yet another example of APD supervisory personnel self-correcting police processes.

An internal affairs request was submitted for an officer that failed to disclose a potential ECW show of force. The misconduct investigation appropriately exonerated the officer.

A referral was appropriately made to the Training Academy for supervisory leadership for a sergeant who could have delegated more responsibilities pertinent to the force array. The monitoring team notes that a lieutenant was on the scene (as did IAFD/EFIT supervisory reviews), but no mention was made about this supervisor's leadership. The monitoring team points this out because there seemed to be a lack of overall command and control both before and after the force was utilized. This assessment is not meant to be critical of the appropriate actions of individual officers at the scene who disarmed the suspect, immediately began first aid efforts on the suspect after her extraction from the vehicle and calmed the suspect. However, the overall standard of care for this injured female was lacking after the vehicle crashed for the third time (and came to its final resting position), as well as after initial emergency treatment by the officers.

Radio transmissions indicated the suspect was involved in potentially three impacts as the result of crashes. At no time did officers attempt to get near the vehicle to determine if the suspect had been injured. All of the information the officers had prior to the final crash indicated that the suspect had demonstrated an altered mental status. Officers verbalized (as demonstrated by radio transmissions) that the suspect appeared uninjured. Still, no attempt was made to get near the vehicle to make a better determination of any injuries (or if the knife was still present). While the monitoring team takes cognizance that on-scene personnel requested a canine as well as tactical assistance that were denied, more than 65 minutes elapsed between the final crash and when the force array made their way down the ravine to the vehicle. While de-escalation attempts are important, the potential for a person's injuries requires at least some level of reconnaissance that minimally should have taken place during this elapsed time to determine the possible extent of any crash-related injuries.⁴³

In an apparent attempt to gain the best outcome for the injured suspect, officers suggested to rescue personnel that a backboard or other apparatus be utilized to carry the suspect from the bottom of the ravine up to I-25, where the awaiting ambulance was parked. That suggestion or request was seemingly denied by rescue personnel. The suspect, who had undetermined injuries as the result of motor vehicle crashes and numerous self-inflicted stab wounds to the chest, was compelled to walk apparently barefoot up the ravine while topless and with her pants down to her pubic region. The ravine was rather rugged terrain, and the officers struggled to hold this suspect steady.

⁴³ This constitutes a potential failure to supervise, and may identify a need for global retraining or counselling of individual supervisors.

The suspect, whose pants kept falling, stumbled three times to the ground on their ascent to I-25. During the final fall, the suspect fell all the way to the ground and began to smash her head into the asphalt roadway before an officer placed her hand under the suspect's head to prevent further injury. There were more than ample personnel from APD and other agencies to have avoided this outcome.

[IMR-16-14] (Level 1, 2, & 3 – Neck Hold – Head Strikes – Takedown – Resisted Handcuffing)

APD officers responded to a call early one morning about a man defecating in a parking lot of a business. Officers located two men nearby, with one of the men fitting the description from the call. When collecting information on their identities to issue criminal trespass notifications, one of the men provided false information and walked away from officers. Several minutes later, the officers detained this male suspect inside a nearby business to conduct a warrant check. The suspect resisted being detained (after officers removed a knife from his boot) and placed in handcuffs by pulling away, tensing his arms and clenching his fists when officers secured his wrists. The officers had a difficult time controlling the seated suspect, and soon the subject was standing as the officers continued to struggle to control him for purposes of handcuffing. One officer placed his arm around the neck of the subject for more than half a minute before eventually going to the ground with the subject. During the ensuing struggle to get handcuffs on the subject when he was on the ground, the same officer pressed on the subject's face/jawline with his forearm to hold him in place and subsequently struck the subject in the head with his elbow on two occasions. This officer also placed his knee on the subject's head for an extended period of time and pushed his head into the ground with his hands in an attempt to stop the subject's movements. Other officers controlled the arms and wrists of the subject in an effort to handcuff him.

A supervisor and paramedics were summoned once the subject was taken into custody. The subject refused medical treatment and transportation to a hospital while at the scene. Officers transported the subject to a hospital where he was evaluated, treated, and subsequently transported to the Prisoner Transportation Center, and lodged on criminal charges.

The subsequent IAFD/EFIT investigation distinguished all of the uses of force deployed during the arrest. The investigation appropriately determined which uses of force were within policy, based on the reasonableness of the force and if each force was necessary, minimal, and proportional. The investigation deemed the neck hold, and various types of force used on and near the subject's head by one officer to be out of policy. A subsequent internal affairs investigation determined that this officer violated two SOPs associated with uses of force and the officer received a 40-hour suspension and a written reprimand.

[IMR-16-15] (Level 1 & 2 – Resisted Handcuffing with Complaint of Injury)

APD officers responded to a call to an apartment complex where a security guard reported being attacked and struck in the head with a hammer by a man who had fled

the scene. After meeting with the victim and obtaining a description of the suspect, officers patrolling the area located the male suspect. One officer gave chase on foot for a few minutes. The suspect eluded that officer but was eventually seen by another officer who caught the suspect after a brief foot chase. Another officer arrived within a few seconds, and both officers attempted to handcuff the suspect before he went down to his knees and then his stomach on his own without any force used by the officers. The suspect then kept his hands under his stomach and resisted being handcuffed. The two officers used a minimal amount of physical force to pull the man's hands out from underneath his body and handcuffed him without further incident. The suspect indicated his finger hurt, so an ambulance was called for him. The suspect was examined at the scene and then transported by ambulance to the hospital, where he was evaluated, treated, and subsequently transported to the Prisoner Transportation Center and lodged on criminal charges.

Due to the complaint of pain and injury that the suspect attributed to an officer stepping on his finger, the investigation of this use of force was classified as a Level 2 use of force and IAFD/EFIT responded. The IAFD/EFIT investigation appropriately determined that the suspect went to the ground on his own without the officers using force. The only force the officers utilized was to pull the suspect's hands from under the weight of his own body to place him into handcuffs. This amount of force was necessary in order to place him into handcuffs. No video evidence indicated an officer stepped on the suspect's finger or hand. Thus, the force used by officers was appropriately deemed to be reasonable and proportional based on the totality of the circumstances and the minimum amount of force necessary to handcuff the suspect.

[IMR-16-16] (Level 1 & 2 – Resisted Handcuffing and Takedown)

APD officers responded to a call from a department store indicating that a male who had previously committed a prior robbery at the store was now inside the store and behaving in a similar way as he did before the previous robbery. Upon arrival, two officers met with the store's loss prevention personnel and viewed security cameras to observe the suspect and another individual apparently shoplifting. The officers radioed for assistance and requested other officers stage outside the front door of the store. The suspects were eventually observed approaching a cashier, handing her a note, and receiving cash from this cashier. Once the suspects began heading towards the exit doors, a sergeant staged outside was notified and the officers exited the security office along with the loss prevention personnel. As these officers (Officer #1 and Officer #2) and the loss prevention personnel closed the distance behind the suspects, the officers announced their identities and told the suspects to stop. As both subjects began to flee, the sergeant staged outside quickly approached the exit doors to stop the suspects' flight. One suspect was stopped at the exit door by a sergeant who was outside. That subject did not resist, was compliant in getting on the ground as ordered, and was handcuffed quickly by Officer #1, who followed him to the store's exit. The sergeant quickly transitioned to the other suspect, who was noncompliant and still attempting to flee the grasp of Officer #2. As the sergeant got to the other suspect, Officer #2 was just physically taking him to the ground. The sergeant grabbed that suspect's right hand and assisted with completing the takedown initiated by Officer #2.

A different sergeant responded to the scene to complete the on-scene investigation. The use of force was correctly determined to be a Level 2 use of force on one subject and the use of low-level control tactics on the other suspect. One suspect was transported to the hospital to be evaluated for a complaint of neck pain. Both subjects were subsequently transported to the Prisoner Transportation Center and lodged on criminal charges.

IAFD/EFIT correctly distinguished between the low-level control tactics employed against one of the suspects and the resisted handcuffing and Level 2 takedown of the other suspect. The subsequent investigation appropriately determined that the low-level control tactics and force used by the officers and sergeant were reasonable and necessary uses of force, proportionally based on the totality of the circumstances and the minimum amount of force necessary to take the suspects into custody.

[IMR-16-07] (Level 3 – OIS; Level 2 – ECW; Level 1 – Shows of Force)

The facts for this case are more fully described here rather than in Paragraphs 24-36 of this report.

In February 2022, APD officers were dispatched to meet with a private citizen who called 911 and reported seeing a vehicle they knew to have been stolen from their neighbor. The vehicle in question was a white pickup truck with certain distinctive attributes that led the caller to believe it was his neighbor's vehicle. Officers met with the 911 caller and owner (called to the scene by the 911 caller prior to the officer's arrival). The officers verified through APD records that on December 27, 2021, the vehicle in question was reported stolen from the owner's residence in Albuquerque. A male subject was seen passed out in the driver's seat, and the officers began to devise an approach plan to conduct a high-risk motor vehicle stop. They also requested an Air Support Unit respond to the area in the event the driver attempted to flee the area.

As officers discussed their approach, the Air Support Unit alerted them that the stolen vehicle was on the move, and it was driven past the officers as the driver attempted to flee the area. Officers could not catch up to the vehicle, so an APD supervisor advised them to back off and allow the Air Support Unit to monitor the stolen vehicle's movements. This went on for approximately 20 minutes, during which time the suspect was making evasive movements to suggest he was aware of the continued police presence. However, none of the officers could position themselves to initiate a police pursuit as delineated in APD policy. Many of the subject's actions were relayed by the Air Support Unit and, at times, were described as reckless. There came the point when Air Support alerted officers in the area that the subject had abandoned the vehicle and ran into the parking lot of a motel.

Officers engaged the subject in the motel parking lot, where he had mounted a motorcycle and was making movements that were obviously meant to start the motorcycle. Based on the totality of circumstances, it was reasonable to believe the subject was attempting to flee the officers further. As the officers approached, the subject dropped the motorcycle and moved toward an apartment door. He then began to

lunge at the door in an attempt to force his way into one of the motel rooms. One officer attempted to take custody of the subject by grabbing him from behind to control his movements. A second officer unholstered his ECW and gave several warnings for the subject to stop resisting. Almost simultaneously, the officer observed the subject with a handgun in his hand as the other officer continued to struggle with him. This officer deployed his ECW to subdue the subject, but it was ineffective because only one of the probes attached.

The subject broke free and began to run toward the motel office and exit, which were in the same direction. An uninvolved male subject was standing near the doorway of the motel office. The officers reported that the subject raised his weapon toward his waist and looked back toward them. Two officers reported an immediate threat to them and others due to the subject's actions and his firearm possession. At that time, one officer fired his service handgun three times and a second officer on scene fired his weapon one time, striking the subject as he ran. The subject fell to the ground and ultimately succumbed to his injuries. The MATF, IAFD, and EFIT were all contacted and responded to the scene to initiate investigations.

[IMR-16-17] (Level 3 – ECW x3; Level 2 – 40mm Launcher and Empty Hand Takedown; ECW; Level 1 – Shows of Force x3)

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

Investigative Support Unit personnel were conducting surveillance and attempting to take custody of a subject who had felony warrants for a host of crimes, including receiving stolen property (stolen vehicle), fleeing, attempting to elude a police officer, a felon in possession of a firearm, and aggravated battery on a police officer, among other crimes. During their investigation, detectives learned the subject had been seen on a surveillance camera in possession of a firearm during one of his crimes.

Detectives observed the subject in a stolen vehicle parked within a mobile home complex, and they devised a confinement plan to approach and take the subject into custody. As the detectives approached the subject, he began to run away through the mobile home community. The environment the detectives were operating in at the time influenced their decisions and was strongly factored into the decisions IAFD made as to the appropriateness of force that was used to take the subject into custody. The area where the subject ran was very confining, with many areas to hide and evade capture. A detective pulled his APD truck close behind the stolen vehicle the subject had driven to the complex. This effectively blocked the stolen vehicle between the detective's vehicle and another vehicle parked next to a mobile home.

At one point, the subject was seen by a detective, and he quickly changed direction and began running along a trailer into a concealed area. The detective ordered the subject to stop, but the subject continued to run away. The detective discharged his 40 mm impact weapon at the subject, from behind, when he did not pose an immediate or imminent threat to him or any other person. The IAFD/EFIT investigation into this use of force

found the discharge of the 40 mm weapon out of policy, and the violation was referred to IAPS for investigation. The monitoring team concurs with the IAFD/EFIT findings.

The subject continued to elude the officers, ultimately climbing atop the roof of a mobile home. Numerous commands were given to the subject to surrender, but he would not. The subject descended from the roof and escaped a second time. He returned to the stolen vehicle the officers originally saw him with, entered the vehicle, and started the engine. Officers ordered the subject to stop, but he immediately began ramming the vehicle forward and reversing into the APD vehicle and another vehicle to escape. The subject was able to maneuver the stolen vehicle to escape being boxed in, but only through the highly reckless operation of the vehicle.

The detectives, at this point, faced a complex set of circumstances that involved several APD policies and CASA paragraphs. A detective unholstered his ECW and discharged it at the suspect on three occasions while he was operating the stolen vehicle in a confined space between mobile homes. To be clear, the de-escalation of this subject and his actions was not an option beyond completely disengaging and allowing the subject an avenue of escape onto residential streets. Those actions would have carried other risks. That said, this event evolved quickly, and detectives and their vehicles were in close proximity to the subject's reckless actions.

The detective discharged his ECW through the open driver's side window, striking the subject in his upper back. The discharge had little or no effect on the subject, who reversed the vehicle and quickly backed up. Another APD detective was maneuvering his assigned truck (already struck by the suspect) behind the subject, and the two vehicles collided, setting off the airbags in the truck. The detective energized the ECW a second time, which temporarily incapacitated the subject while behind the wheel of the vehicle. A third detective opened the car door to extract the subject, but the subject put the vehicle back into drive and began to quickly move it forward, nearly striking the detective who was holding his arm. The first detective energized the ECW a third time, which immobilized the subject a second time. He told the detective to engage the subject again, at which time he reopened the driver's side door and pulled the subject from the vehicle. Detectives performed an empty hand takedown and quickly handcuffed the subject.

Under these circumstances, IAFD/EFIT found the ECW deployments to be in policy. The monitoring team assessed the facts and circumstances against the applicable APD SOPs and CASA paragraphs and, based on the totality of circumstances of this specific event, concurred with the findings of IAFD/EFIT. We balanced the restrictions of discharging an ECW at a person operating a vehicle against the recklessness the subject displayed and the confined area the officers were operating in at the time. The shows of force reported during the event were also determined to be in policy by IAFD/EFIT, and the monitoring team agrees.

The discharge of the 40 mm Impact Launcher at the subject was referred to IAPS and sustained as a Sanction 6 out of policy use of force by IAFD. The disciplinary range was

non-disciplinary corrective action to 8 hours suspension, and IAFD recommended a written reprimand.

A Deputy Chief reduced the sanction to a verbal reprimand and, as a mitigating factor stated, "There are mitigating factors in this case. There is a policy deficiency. If a perimeter had been set up, a police service dog could have been used. The likelihood for injury from a dog bite is high compared to a 40 mm. Therein lies the policy deficiency. The use of the 40 mm in this case was a lower level of force used on the individual. I am imposing a verbal reprimand." In the monitoring team's opinion, the Deputy Chief introduced hypothetical mitigating information not introduced during the investigation nor relevant at the point the detective improperly deployed his 40 mm Impact Launcher. The mitigating rationale undermined the idea of accountability for the discharge of an intermediate weapon at a person that IAFD determined was not an imminent or immediate threat at the time it was discharged.

[IMR-16-18] (Level 2 – 40mm Launcher; Level 1 – ECW Show of Force)

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

APD Officers were dispatched to an aggravated assault call that a male had threatened a female with a knife while she sat in her car in a parking lot of an apartment complex. Officers met with the victim and established probable cause for an arrest of the subject. The officers approached the subject's apartment to talk with him. After the officers knocked on his door, the subject suddenly burst from inside, yelling at the officers and aggressively charging toward one officer. An officer unholstered his ECW and pointed it at the subject as a show of force to stop the advance since they were in a closely confined space at the top of a staircase. For over an hour, officers attempted to communicate with the subject professionally and to de-escalate his aggressive tone and demeanor. Throughout the event, the subject yelled at and physically threatened the officers from a second-floor breezeway near his apartment. The subject's elderly mother was believed to be inside the apartment. Both ECIT and MCT trained officers tried to de-escalate and convince the subject to surrender, but his tone and demeanor remained aggressive throughout the event. Based on the totality of circumstances, an on-scene supervisor authorized the deployment of intermediate weapons to prevent the subject from reentering his apartment. A plan was developed to take him into custody if he attempted to return to his apartment. Officers approached him from behind through the breezeway adjacent to the apartment. The subject was told he was under arrest and not to move, but he suddenly retreated toward his apartment and an officer deployed his 40mm impact launcher, which missed. The subject exited his apartment, and additional negotiations began. Ultimately, the subject descended the apartment building staircase and was taken into custody without further uses of force.

A joint IAFD/EFIT investigation revealed, by a preponderance of the evidence, that the actions of the officers were within APD guidelines and SOPs. The monitoring team reviewed the case and agreed that based on the totality of circumstances, the officers' actions were objectively reasonable and compliant with APD SOPs and the CASA.

[IMR-16-19] (Level 2 – Empty Hand Takedown; Level 1 – Resisted Handcuffing)

An APD officer responded to a convenience store in response to a report of a habitual trespasser. The officer was familiar with the location and the store manager from previous calls for service. These previous calls for service involved the same subject for the same violation. The officer was personally aware that the subject had been previously noticed not to return to the location. The store manager indicated they wanted the trespassing enforced. The subject was known to loiter and harass employees and customers of the store. When the officer arrived on scene, he was directed to the rear of the store, where he encountered the subject rummaging through a dumpster. The officer properly identified himself and instructed the subject that he was not free to leave and was under arrest for trespassing. The subject dropped items that were in his hands and began to run from the officer. The officer pursued the subject on foot and caught him in the parking lot at the front of the store.

The subject fell to the ground when the officer grabbed his shoulders. However, during his interview, the officer was unable to say whether the subject fell on his own due to the ground being slippery or if their collective momentum caused him to lose balance. Still, the result was that the subject went to the ground and began resisting arrest. The subject flailed on the ground and resisted arrest for approximately one minute when security guards assisted the officer in stabilizing and handcuffing him. A supervisor responded to the scene and properly characterized the uses of force as a Level 2 empty hand takedown and Level 1 resisted handcuffing. IAFD and EFIT were contacted and assumed responsibility for the investigation. Their investigation found that the officer's actions were objectively reasonable, necessary, proportional to the threat, and the minimum amount of force necessary. The monitoring team agrees with IAFD's assessment of the uses of force.

[IMR-16-20] (Level 2 – Empty Hand Takedown)

APD officers were dispatched to assist a person reported as suicidal by a friend. One of the responding officers was familiar with the subject, having responded to a report of the subject being suicidal two weeks earlier, when he said he wanted to commit a "suicide by cop." When officers arrived, they encountered the subject inside an apartment. The officers talked with the subject and were invited into the apartment to talk. While talking with the subject, the officers demonstrated a calm and professional demeanor and inquired about his well-being. The subject exhibited signs of intoxication, and he took a drink from a bottle of alcohol and swallowed an unknown number of pills before the officers could move them from his reach. The officers kept the subject calm for more than thirty minutes as they waited for an ambulance to arrive to take the subject to the hospital for a mental health evaluation.

The subject's demeanor became more volatile as time passed. When the officers attempted to convince the subject to exit the apartment to be treated by the EMS team (that arrived on scene), he became aggressive and threatening toward the officers. The officers continued their calm demeanor while attempting to de-escalate the subject's tone. Eventually, the subject exited the apartment and met with EMS personnel outside.

Officers had determined that the subject had to be detained to be evaluated because of the suicidal threats he made. The subject suddenly turned away from the EMS team and moved back toward his apartment. The officers followed while attempting to stop and detain the subject. One officer took hold of the subject's arm and two others attempted to help as the subject began to struggle and resist the officers. The officers took the subject down and onto a bush outside his apartment. The subject stopped struggling and was handcuffed and taken into protective custody. He was eventually transported to a hospital for a mental health evaluation.

A supervisor responded to the scene and properly categorized the actions of the officers as a Level 2 empty hand takedown. IAFD and EFIT responded and investigated the use of force and determined that the force was objectively reasonable, necessary, proportional, and the minimum amount of force necessary. The monitoring team reviewed the event and concurred with the findings of IAFD regarding the use of force.

[IMR-16-21] (Level 2 – Empty Hand Takedown; Level 1 – Resisted Handcuffing)

APD officers assigned to the airport were notified that an assault occurred when a male inappropriately touched a female as he walked by her. The woman was upset but could provide a detailed description of the subject and his clothing. She also indicated that the subject was walking toward the exit when the assault occurred. Three APD officers responded toward the airport exit, and one quickly located the subject, who made an obvious change in direction when he saw the officer. The officer got closer to the subject and instructed him to stop, but he continued walking toward the exit. When the officer made a second command, the subject began to run. Two additional officers converged on the area to assist and also saw the subject moving toward the exit. One of those officers overtook the first officer. As the subject exited the airport doors to an exterior sidewalk, the officer grabbed the subject's backpack and simultaneously spun him while taking the subject to the ground. The first officer assisted him as the subject resisted being handcuffed, and a third officer braced the subject's feet as a low-level control tactic. After a brief struggle, the subject was handcuffed, all force was ceased, and the victim positively identified the subject that officers had in custody as the person that assaulted her. Following the initial arrest and handcuffing of the subject, he was placed in the rear seat of a patrol car. Sometime later, he was able to slip out of his handcuffs, which required the officers to remove him and reapply the handcuffs.

An APD supervisor responded and correctly categorized the officers' uses of force as a Level 2 empty hand takedown and Level 1 resisted handcuffing. IAFD and EFIT were contacted, and they conducted the investigation into those uses of force. They determined that the force used by the officers was objectively reasonable, necessary, proportional, and the minimum amount of force necessary. The monitoring team agrees with their assessment. A mandatory training referral was made for the officer who improperly applied the handcuffs. We reviewed documentation showing that officer later met with Academy for remedial training in handcuffing techniques. There were discrepancies noted in the primary officer's report that were not addressed in the chain of command review investigation. The officer documented in his report that he reached for the subject's arm and did not see how the subject was taken down (by the second

officer). The officer's OBRD was clear during his approach of the subject up to and including the takedown of the subject by the second officer. The primary officer was never in close enough proximity to the subject to grab his arm, but when the takedown of the subject occurred, he was only 10-15 feet away and moving toward the takedown, which is clearly depicted on his OBRD. These discrepancies had no influence on the determinations of the use of force but should have been documented and resolved in the IAFD investigation report.

[IMR-16-22] (Level 2 – Empty Hand Takedown; Level 1 – Resisted Handcuffing)

An APD officer was performing security at a local business when a store employee alerted him to a person in the store that was previously noticed not to return due to his habitual shoplifting. The officer located the subject who was being detained by store employees near an exit, and immediately alerted him to his trespassing. The subject was being escorted from the store when the officer noticed bulges in his overcoat indicative of him concealing stolen property. The officer advised the subject he was under arrest and brought his arms behind his back to be handcuffed. The officer applied one handcuff when the subject suddenly began to tense and pull away from the officer. The officer struggled to secure the subject and used Level 1 force (resisted handcuffing) to regain control. As the subject continued to resist being handcuffed, the officer utilized a Level 2 leg sweep to take the subject to the ground. He was able to brace the subject to the floor and was assisted by store employees until a second officer arrived. The subject was then fully handcuffed without the need for additional force. A supervisor responded to the scene and properly categorized the force as including a Level 2 takedown. IAFD and EFIT were contacted to assume investigative responsibilities for the uses of force. IAFD determined that the force used by the officers was objectively reasonable, necessary, proportional, and the minimum amount of force necessary. The monitoring team agrees with their assessment. The officer's OBRD captured the entire force event. However, an Internal Affairs referral was made for the officer failing to activate his OBRD according to policy, which would have included his conversations with the store employees prior to engaging the subject.

Observations and Comments

For the life of the monitoring project at APD, Operational Compliance has been defined as "...the point at which 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."

We note that during this reporting period, APD personnel have not been ensuring compliance alone, since EFIT has been providing close supervision and assessment of line personnel use of force. However, it is important to note that APD personnel, with EFIT's oversight, have been conducting force investigations that follow the requirements of the CASA.

APD has proven capable of doing effective internal investigations with EFIT's oversight. What remains to be done is for APD to produce industry-standard force investigations without the oversight and assistance of external sources such as EFIT and the monitoring team.

No discernible negative trends have been noted during this monitoring period. We do, however, note the improvements in situational dynamics and response by APD. Multiple incident reviews by the monitoring team turned up no serious flaws in or issues with APD's response during the selected case reviews.

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**

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**

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: **In Compliance**

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**

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: **In Compliance**

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**

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-16, members of the monitoring team requested a random sample of fifteen (15) Level 2 and Level 3 uses of force that IAFD investigated with assistance and oversight by EFIT. The monitoring team reviewed those cases to assess the appropriateness of force used by APD officers and the quality of the investigation 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 (15) use of force events had seventeen

(17) distinct use of force case numbers⁴⁴, and a BlueTeam entry was available for each case. We reviewed the BlueTeam entries and found that of the sixteen (16) force cases involving a reportable Level 2 or Level 3 use of force, APD made the BlueTeam entry within 24 hours of learning of the force in all cases for a 100% compliance rate based on our random sample.

APD also provided the monitoring team with a Paragraph 70 self-assessment report for the entire IMR-16 monitoring period. The documentation we reviewed contained 223 reportable uses of force, and we checked to ensure there was a 24-hour notification through BlueTeam. The data revealed only five (5) instances where the 24-hour notification requirement was not met for a 98% compliance rate. The monitoring team cross-referenced the BlueTeam entries with the cases we reviewed and found that each was properly captured in the APD self-assessment.

Based on this data, we have determined that for IMR-16, APD has retained Operational Compliance with Paragraph 70.

Results

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**

⁴⁴ One case [IMR-16-16] was taken for a low-level control tactic, not a use of force.

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**

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**

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**

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**

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

As part of our assessment of compliance of this paragraph, the monitoring team conducted a review of fifteen (15) completed Level 2 and Level 3 use of force cases drawn from samples taken throughout the reporting period. We discussed the status of this paragraph with IAFD, and reviewed data provided by APD regarding the transmittal of investigative files to both the FRB and Chief of Police. Case completion information can be queried systematically through IAPro by the FRB, but to meet the provisions of this paragraph IAFD has sent emails to the FRB that include spreadsheets of cases that were closed within specific date ranges (usually weekly). Data presented to the monitoring team regarding the 15 cases showed that in 12 of the 15 cases there was a routine and timely notification sent to the FRB.⁴⁵ We learned that routine notifications to the Chief of Police were not occurring, and that IAFD was putting procedures into place to remedy that gap.⁴⁶ Of the data we reviewed regarding the 12 cases that were transmitted to the FRB, the average number of days it took for the notification to occur was five, with one taking fifteen and most taking as little as one day. We encourage IAFD to transmit cases to the FRB and Chief of Police without unreasonable delay following the completion of an investigation and in accordance with Paragraph 75. Operational Compliance will be assessed during the next monitoring period.

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

Recommendations for Paragraphs 60, 61, 63, 69, 71, 72, 73, 74, and 75:

4.7.47 - 61a: Utilize the IAFD/EFIT practices and processes regarding use of force investigative practices.

⁴⁵ IAFD noted to the monitoring team that a transmittal email was not located for three cases we reviewed from early in the monitoring period.

⁴⁶ Conversations occurred between the monitoring team and IAFD following the close of the monitoring period. We provided technical assistance and recommended that IAFD notify the Chief of Police for any case already closed in the IMR-17 period and to implement their new procedure to notify to the Chief of Police for any case moving forward. This will allow for operational compliance determinations in future monitoring periods.

4.7.47 – 61b: Transmit cases to the FRB and the Chief of Police without unreasonable delay.

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 Paragraph 201 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

The monitoring team continued to see strong attendance by the Force Review Board (FRB) members. As with the previous monitoring period, generally, the use of force cases presented recently have occurred since the External Force Investigation Team (EFIT) began assisting and overseeing IAFD's activities in July 2021. With the increase in the quality of the investigations and a more reliable referral of misconduct identified during those investigations, there has been a noticeable impact on the FRB. We did note that the degree of discussion among FRB members has decreased significantly over the past two monitoring periods, meaning there is a more limited amount of time spent addressing misconduct and investigative failures. This has allowed for a more efficient movement through meeting agendas. As we previously noted, we attribute this principally to higher levels of confidence the FRB has in findings made by IAFD since EFIT assists with and supervises the cases. That said, we caution the FRB to remain vigilant in its review of cases and continue to embrace its executive role over the accountability system through the FRB. The monitoring team was impressed with the degree of engagement over the past 20 months. That sustained energy will become more important as IAFD sworn detectives, and civilian investigators are released to conduct Level 2 and 3 uses of force without the attendance of an EFIT investigator. Likewise, there will be a time that IAFD assumes all investigations without EFIT's supervision, at which time the culture established within the FRB will be crucial.

Referrals to address policy, supervision, tactic, equipment, and training deficiencies continued throughout IMR-16, but at a lesser rate than in the past.⁴⁷ Hopefully, FRB executives feel the benefits of the higher quality investigations they received during the last two monitoring periods and will continue to commit the agency's resources to support the needs of IAFD. We have commented several times in the past that when

⁴⁷ We continue to encourage APD's FRB Chairperson to track and 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? Are those referrals being properly administered and closed out? 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.

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 entire system of accountability. The responsibility to sustain this trend rests squarely with the top echelon of APD. EFIT has documented its concern for sustainability at IAFD in its quarterly reports. We also share EFIT's concern and the impact any slide backward would have on FRB oversight in the long term. When the transition occurs back to APD supervising IAFD alone, commitment to current standards and the executive level resolve to ensure the sustainability of those standards will be tested.

In the past few monitor reports, we documented our concern regarding a backlog of more than 660 IAFD investigations into Level 2 and Level 3 uses of force cases which originate as far back as January 2020 and the cascading impact on the FRB. Likewise, additional lingering use of force cases were documented in an APD PINS memo and not yet reviewed by the FRB. These cases dated back as many as six years ago. APD understood the backlog of use of force cases had to be addressed. Since the last monitoring period, an additional Stipulated Order was agreed to among the parties to increase the scope of EFIT's responsibilities, wherein EFIT will conduct primary or follow-up investigations into the backlogged use of force cases. At the close of the monitoring period, APD submitted a proposal to focus its reviews of older use of force cases and to have such cases reviewed by a newly established Secondary Force Review Board. As the monitoring team first suggested a second FRB more than three years ago, we support this initiative, provided the standard of review for cases is commensurate with the Primary FRB.

The following paragraphs represent additional findings related to Paragraph 78:

In May 2022, APD updated its Force Review Board SOP 2-58 (Formerly 2-56), which is now due in May 2023. At the close of this monitoring period, APD and its Academy created a training program for new FRB members, which was reviewed and approved by the monitoring team. This new training initiative was long in the making and appropriate for new APD personnel who may serve as FRB or Secondary FRB members. We previously alerted APD that the old version of training would not be re-approved following the last delivery, and APD appropriately responded by creating a 16-hour curriculum. Since this was finalized at the very close of this monitoring period, we will request records of the new program being delivered for IMR-17.

During our May 2021 site visit, we met with APD personnel responsible for the tasks associated with Paragraph 78. Throughout the reporting period, monitoring team members attended FRB meetings to assess the quality of case reviews and ensure the meetings were being conducted effectively. 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."⁴⁸ As we have noted in the past, timely feedback is key to remediating performance and misconduct,

⁴⁸ The FRB also reviews all tactical specialized unit deployments as per Paragraph 99.

and legitimate supervision and accountability will slowly influence the organizational culture. Meetings we attended (virtually) had the same features as reported in past monitoring periods, with scripted opening remarks and procedures to confirm that meeting procedures are standardized. As APD advances its effort to hear new and old cases in a timelier manner, it will be increasingly important to ensure those cases are transmitted to them without delay after IAFD determines each force investigation is complete.⁴⁹

The Performance Metrics Unit (PMU) previously devised a way for the FRB to electronically capture votes regarding the appropriateness of force and investigations into that force when cases are presented to them. The platform used was initially piloted in the last monitoring period and became the standard practice for casting and analyzing FRB voting during this monitoring period. Parenthetically, the newly created Secondary FRB will also use the same voting application for their meetings. As previously noted, we looked very favorably on this manner of casting votes since cases can contain multiple types of force, with multiple applications, by multiple officers, against multiple people. The FRB found it difficult to properly organize the information to ensure each use of force was appropriate, and this new voting method has had a significant positive impact.

The FRB is required to conduct timely, comprehensive, and reliable reviews of all tactical deployments, a 10% 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 two to three hours, and we saw an increase in the number of cases heard throughout this monitoring period. In fact, we saw as many as five Level 2 and 3 cases, and six tactical cases heard in a single meeting.

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 February 1, 2022, and July 31, 2022. The meetings held during this monitoring period generated 18 separate referrals⁵⁰ that were sent out for follow-up by the relevant organizational units. For comparison, during the IMR-15 reporting period, ten referrals were made by the FRB, so there was an 80% increase during the IMR-16 monitoring period. The referrals we saw spanned several categories, ranging from requests for additional investigation into a use of force, policy revisions, training for officers, and requests for analysis into increases in uses of force in a particular Area Command. These referrals were all appropriate based on the mission of the FRB. Since

⁴⁹ Paragraph 75 states, "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 report shall be forwarded to the Force Review Board with copy to the Chief."

⁵⁰ For policy, tactical, supervision or training issues.

investigations into uses of force are as a matter of routine making internal affairs referrals, we are not concerned that the FRB made none during this monitoring period.

In prior monitor reports, we commented that for APD to meet their requirements pertaining to Paragraph 78 reliably, they needed to immediately course correct and increase the number of FRB meetings. During the IMR-16 reporting period, the FRB held 30 separate and distinct weekly meetings, constituting a 43% increase in meetings over the prior (IMR-15) reporting period. The total number of events/cases heard during the last monitoring period was 55, ten of which were tactical activations without an accompanying use of force. For this monitoring period, the FRB heard 20 tactical cases, 19 Level 2 cases, and 56 Level 3 cases (17 of which were officer-involved shootings). As is evident in the table below, during the 16th monitoring period, the FRB's pace of hearing cases increased dramatically. These increases with the Primary FRB, coupled with the launch of the Secondary FRB, bode well for APD's efforts to hear all use of force cases in a timely manner.

Type of Case	IMR-15	IMR-16	% Increase from IMR-15
Tactical	10	20	100%
Level 2 and 3	45	75	67%

The FRB heard 35 Level 2 or Level 3 cases, 28 of which occurred within the same 16th monitoring period. This is in large part due to the increased timeliness of case completion rates since EFIT began working with IAFD in July 2021. This is important because it provides the FRB with 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. 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.

APD submitted a memorandum to the monitoring team on July 28, 2022, proposing the implementation of a Secondary FRB. The monitoring team had recent conversations with APD regarding such an initiative, and the department was proactive in receiving and implementing our technical assistance. APD assessed older, pending use of force cases generated prior to 2020 that have to be heard by the Primary FRB and determined that there were 148 cases. That number, coupled with new force cases being generated, placed a tremendous burden on the FRB and would likely cast Operational Compliance well into the future.⁵¹ The likelihood of discipline being imposed from the older cases is

⁵¹ It's appropriate to reiterate that this situation was predicted by the monitoring team more than two years ago, which is why at that time we recommended solutions, among them was a second Force Review Board.

low, so the Secondary FRB would hear a “purposeful sampling” of the 148 cases based on a methodology devised by the department as follows⁵²:

1. All Officer Involved Shooting (OIS) cases that are in the PINS cases. No other PINS cases will be included in the Secondary FRB review.⁵³
2. All Officer Involved Shootings (OIS) that occurred before January 2020 when the new UOF policy suite was in place. (4 OIS cases that occurred after January 2020 will be sent to the Primary FRB for Review).
3. Cases involving “high, consistent, or recent rates of sustained or open UOF allegations officers (HCRR).”⁵⁴
4. Cases with a behavioral health (BH) component and the case was classified as a Level 3 UOF and the individual was injured by law enforcement officers.
5. Cases involving ECW or impact weapons and the case was classified as a Level 3 UOF and the individual was injured by law enforcement officers.
6. Cases involving hands-on and takedown techniques and the case was classified as a Level 3 UOF and the individual was injured by law enforcement officers.
7. K-9 bites and PIT over 35 mph cases that were not included in 1-6.

We believe the presentation of data and APD’s approach to applying this methodology was thoughtfully conceived and appropriate under the totality of circumstances. The methodology reduced the total number of cases the Secondary FRB would hear from 143 to 83. Finally, APD proposed applying these criteria to prioritize new use of force cases that could be reviewed by the Secondary FRB as follows⁵⁵:

1. Current and future tactical activations. The Special Operations Division will be provided a minimum of one meeting each month to present current tactical activations;
2. OIS cases;
3. HCRR officer cases;
4. Cases involving people in mental health crisis;
5. ECW, Impact and Hands-On Techniques cases; and
6. K-9 Bites and PIT Over 35 MPH cases.

⁵² Source: APD’s July 28, 2022, PINS memorandum entitled, “Proposal for Secondary FRB Implementation”.

⁵³ The PINS reference here relates to a different PINS memo originally submitted to the monitoring regarding a previous backlog of use of force cases (pre-2020) dating back to 2016.

⁵⁴ Here the reference to “UOF allegations” refers to allegations of misconduct related to a use of force, not a use of force alone.

⁵⁵ Source: APD’s July 28, 2022, PINS memorandum entitled, “Proposal for Secondary FRB Implementation”.

Over the past two years, we have seen specific Deputy Chiefs emerge as leaders of the Primary FRB and commented openly about our observations of how they thoughtfully assessed cases and challenged issues in meetings. The monitoring team recommended, and APD adopted, taking one of those Deputy Chiefs to serve as the Chair of the Secondary FRB to ensure the tone and tenor of those meetings is commensurate with the Primary FRB. We see the implementation of a Secondary FRB as a step toward Operational Compliance. We will closely monitor its progress and provide technical assistance as necessary in the coming monitoring periods.

Results

The FRB is a key organizational feature for influencing reform, and APD's implementation of a Secondary FRB will greatly benefit the organization as it advances its efforts toward Operational Compliance with Paragraph 78. As for the Secondary FRB, we will request and assess records generated from their meetings for IMR-17 since it launched at the end of this monitoring period.

Based on our review, we have determined Secondary Compliance is continued for Paragraph 78. The FRB continued to show signs that it can achieve Operational Compliance with Paragraph 78 in terms of timely, comprehensive, and reliable reviews of Level 2 and Level 3 uses of force investigations. We remain encouraged with the FRB performance and will continue to provide technical assistance to help them achieve Operational Compliance.

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

Recommendations for Paragraph 78:

4.7.44a: Continue utilizing the Secondary Force Review Board for the current backlog of cases required to be reviewed.

4.7.44b: Report regularly to the Chief of Police on progress toward the established goals and objectives related to the entire FRB process. The report should include statuses on the FRBs' progress in addressing all cases required to be reviewed.

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.

The monitoring team requested course of business documentation that demonstrated provisions within the paragraph had been met. During past monitoring periods, APD published its final Annual Use of Force Report inclusive of the years 2016-2019, and 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, including 2016-2020 data. APD accumulated a large backlog of use of force investigations 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, but as of the close of IMR-16, the report was not complete. In IMR-15, we commented that it was not unusual for the 2021 use of force data to take time to assemble into an updated Annual Report, since that monitoring period closed only a month into 2022. The fact that APD still has not submitted its 2021 Annual Use of Force report, in either preliminary or final status at this point is concerning to the monitoring team. However, based on our discussions with APD, we have been advised that during the IMR-17 monitoring period we will be provided with the 2021 Use of Force Annual Report. We note that EFIT has been

contracted to address the backlog investigations and began its work during the IMR-16. As the pending backlog cases are completed, APD will be expected to reassess the Annual Report for final status.⁵⁶

With the publication of the Preliminary 2020 Annual Use of Force Report during the IMR-14 reporting period, APD attained Secondary Compliance with Paragraph 79. The monitoring team has learned that a draft of the 2021 Annual Use of Force is circulating for internal review and will be provided during the IMR-17 monitoring period.

We have determined that APD sustained Secondary Compliance status for Paragraph 79; however, finalizing these reports is a prerequisite for assessing Operational Compliance.

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 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.

4.7.67 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

⁵⁶ At the close of the monitoring period the City and DOJ agreed that APD would 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.

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: Continue to ensure that accurate use of force information is tracked and utilized to complete the Annual Use of Force report as well as other reports, as necessary.

4.7.68 – 4.7.72 Assessing Compliance with Paragraphs 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, consults with the participating jurisdictions to establish investigative protocols for the task force, and generally consults and coordinates with the participating agencies regarding investigative briefings and the release of information relevant to MATF investigations.

APD members from the Violent Crimes Section 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 cases involving potential criminal charges resulting from a use of force by officers. This is continuously reflected in a review of documentation provided to monitoring team members. APD continues to ensure personnel assigned to the MATF are full-time detectives or supervisors with member agencies and that a representative of each member of the MATF is present during interviews of involved personnel (absent extenuating operational constraints). APD also addresses perceived deficiencies in MATF investigations and maintains the confidentiality of MATF investigations.

During our May 2022 site visit, the monitoring team met with the Deputy Commander of APD’s Criminal Investigative Division, who oversees APD’s involvement in the MATF. The monitoring team uses these types of meetings to identify any issues being encountered by the MATF. During this site visit, members of the monitoring team attended the briefings provided to APD pertaining to two officer-involved shootings. These briefings provide an important opportunity for APD members working on the MATF to release evidence (including 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.

Subsequent to that visit, the monitoring team reviewed documentation related to MATF activations. This review confirms a robust response to MATF callouts, especially for officer-involved shootings, which often have multiple crime scenes that require numerous investigative resources. For the monitoring period, the MATF was activated 19 times. The activations were for nine APD OISs, two APD in-custody deaths, one APD criminal allegation case, one APD barricaded subject death, and six cases attributed to MATF partner callouts (all OIS cases).

Finally, the MATF Memorandum of Agreement (MOA) has been amended to accommodate the Rio Rancho Police Department back into the MATF. As of early September 2022, this MOA remains unsigned by some of the parties. However, the deputy commander overseeing APD's commitment to the MATF notes that all of the MATF member agencies continue to respond to MATF activations. A review of MATF documents supports this assertion.

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 May 2022 site visit. In the 15th Monitor’s Report, we documented the positive strides the Academy took toward compliance. Because of their collective efforts, APD achieved Operational Compliance with Paragraphs 86 and 87, but Paragraph 88 remained at Primary Compliance. Based on our interactions throughout this monitoring period and a review of available data, APD has sustained its momentum with respect to Paragraphs 86 and 87. The impetus of success will be APD’s Academy and the capacity to complete the required tasks, but all signs trend positively at this point.

During our site visit, the Academy provided a presentation to communicate their efforts since IMR-16. Among the many items discussed was their specific attempts to address each monitor’s recommendation from the last report. As we noted previously, leadership at the Academy understand curriculum development at a much higher level than in the past. They are embracing the concept that training development in the context of the CASA requires them to build pathways of information. Those pathways should address emerging trends and inform their curriculum development, so that specific, contemporary needs in the field are quickly addressed. We cannot stress enough the importance of this concept and how achieving sustainable cultural change occurs by reinforcing policy-articulated behaviors and remediating problematic behaviors. Historically, the propensity of APD had been to react slowly to technical assistance; however, new Academy command personnel embrace our technical assistance and put measures in place as soon as practicable. Likewise, we see the current Academy staff being proactive and implementing administrative measures without the need for technical assistance. We see that as a good indicator of sustainability of compliance in the future. The Academy Commander, Deputy Commander, and Curriculum Development Manager previously identified in the monitor’s reports are still leading training efforts, which provided stability throughout IMR-16. Also, staff supervision at the lieutenant and sergeant levels contributes greatly to the overall success at the Academy, particularly with the Advanced Training Unit.⁵⁷

⁵⁷ We note the Advanced Training Unit because of their influence over these specific paragraphs, but understand other unit personnel contribute to the success as well.

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

Paragraph 87a:

The Academy disseminated a briefing video entitled “2022 Pat Downs and Search Briefing Video” through its online learning management system. This video addressed the importance of conducting proper searches in the field. While not considered training for compliance purposes, APD believes these videos help disseminate information quickly to address potential needs in the field. At the same time, a more in-depth curriculum is being developed. We have previously discussed that the importance of such topics would likely require them to be a part of larger annual training programs, in which fully developed curricula are prepared. We reviewed a July 21, 2022, status memorandum, a course of business communication, that indicated that 99% of available APD sworn officers had viewed the briefing video as of the close of this monitoring period.

The Academy submitted training materials for a 2022 Search and Seizure Refresher video to the monitoring team for review and approval. The training was to be delivered through APD’s online learning management system, and Special Order 22-32 was promulgated on March 9, 2022, requiring all personnel to complete the training. This training originally emanated from a referral made by the Force Review Board in September 2020 and addressed several search and seizure and Fourth Amendment topics.⁵⁸ We reviewed a June 9, 2022, closeout memorandum demonstrating that 99.88% of all available and sworn personnel successfully completed the training.

The Academy submitted training materials for a *Miranda* Refresher video, which was reviewed and approved by the monitoring team. Special Order 22-32 was promulgated requiring all sworn APD officers to complete the training video. We reviewed a June 9, 2022, closeout memo and data documenting that 100% of all available and sworn personnel successfully completed the training.

The Academy submitted training materials for the 2022 Maintenance of Effort (MOE) / Phase II Biennium training for review and approval by the monitoring team. We found the information well organized and approved the training for delivery. Special Order 22-49 was promulgated on May 6, 2022, and listed training dates through August 10, 2022. A July 28, 2022, status update memo indicated that at the close of this monitoring period 71% of available sworn personnel attended the training with five training dates remaining. APD expect this training to be completed within the next monitoring period.

Paragraph 87b:

⁵⁸ Topics included identifying lawful exceptions to the warrant, identifying conditions when consents to search can be lawfully given, defining exigent circumstances, Plainview doctrine, open fields doctrine, Terry frisks, among others.

In April 2022, the Academy submitted its 2022 Reality Based Training (RBT) materials to the monitoring team for review. We found the materials well organized and thoughtful to the needs of APD officers in the field and provided feedback to the Academy. The Academy adopted the technical assistance, and in May 2022, the materials were approved for delivery.⁵⁹ During our May 2022 site visit, we were invited to attend a *beta* offering of the course where Academy personnel ran a limited number of officers through the training to refine the delivery practices before opening it to the rest of the organization. The scenarios presented in the training were excellent, and the professionalism of the instructors we saw was self-evident. On April 28, 2022, APD promulgated a Special Order 22-48, “2022 Mandatory Reality Based Training”, for 10 hours of RBT training scheduled to run through September 29, 2022. We reviewed a July 28, 2022, status update memorandum that documented approximately 39% of all sworn APD officers attended the training to that point. There were twenty-eight (28) sessions left, and APD expects to have completed this training successfully during the 17th monitoring period.

Paragraph 87c:

APD is completing the requirements with this Paragraph provision through the 2022 RBT as noted above in Paragraph 87b.

Paragraph 87d:

APD is completing the requirements with this Paragraph provision through the 2022 RBT as noted above in Paragraph 87b.

Paragraph 87e:

APD is completing the requirements with this Paragraph provision through the 2022 RBT as noted above in Paragraph 87b.

Paragraph 87f

APD is addressing the requirements with this Paragraph provision in part through the 2022 RBT as noted above in Paragraph 87b.

On February 16, 2022, APD promulgated Special Order 22-20 for their “2022 Day and Low Light Firearms Qualification and ECW Recertification Course”, which was scheduled to run through May 19, 2022. We reviewed data and an August 8, 2022, closeout memorandum that demonstrated 99.6% of all available and sworn members successfully completed the ECW portion of training and a July 25, 2022, status update

⁵⁹ Specifically, we recommended the Academy discuss with EFIT what their observations had been during force investigations where issues with the establishment of lawful objectives and force with ECWs was used against passively resistant people. We also recommended including more test questions since there was a great deal of materials and to ensure each learning objective was properly supported from a post training assessment perspective.

memorandum demonstrating 99.4% of available and sworn members successfully completed the firearms portion of the training.

On April 28, 2022, APD promulgated Special Order 22-52 for “Mandatory Axon Capture Incident Management/ Supervisor Training,” which was due to run from July 13 to September 9, 2022. The purpose of the training is to “...provide an overview of the capabilities of the Axon capture program and the roles and responsibilities of a supervisor when using the program. The incident management course provides related guidance, policy review and practical exercises involving the allocation and use of resources in response to varying levels of threatened priority.”⁶⁰ At the close of this monitoring period, 26% of available and sworn supervisors attended the course. APD expects to complete this training during the next reporting period.

Paragraph 87g:

To meet the requirements of this subparagraph, APD requested to deliver the same “ERT: Field Service Response to Demonstrations and Civil Disturbances” training course developed and delivered at the end of 2021. After discussing the matter with the APD Academy, we agreed that the information contained in the training video was acceptable with the understanding that new materials would be developed for 2023. On March 2, 2022, Special Order 22-19 was promulgated requiring all sworn personnel to attend the online crowd control training course through their learning management system. We reviewed data and a July 27, 2022, closeout memorandum demonstrating that 100% of available sworn personnel successfully completed the training.

Paragraph 87h

As with Paragraph 87g, to meet the requirements of Paragraph 87h, APD requested to deliver the same “Initiating and Disengaging Foot Pursuits” training delivered in 2021. The training was developed and approved by the monitoring team late in 2021 and in our opinion, is still relevant. That said, APD agreed that training to meet the provisions of this sub paragraph will have to be revised in 2023 to remain compliant with the CASA. Special Order 22-19 was promulgated on March 2, 2022, ordering all sworn personnel to attend the online training through their learning management system. We reviewed data and a May 25, 2022, closeout memorandum that demonstrated that 100% of available sworn personnel successfully completed the training.

The monitoring team was also provided attendance records and Close Out memos for Use of Force Tiers 1-3, which provided data regarding current organizational attendance rates for those three sessions.⁶¹ These results are reported as follows: 1) Tier 1 – Of 877 current personnel available and required to attend the training, 100% have successfully completed the training; 2) Tier 2 - Of 877 current personnel required to attend the training, 100% have successfully completed the training; 3) Tier 3 – Of 321

⁶⁰ July 28, 2022, course status update memorandum submitted by APD.

⁶¹ Numbers are variable because of officer retirements, other types of separations and new officers entering the organization.

active sworn supervisors available to attend the training, 100% have successfully completed the training. We highly encourage APD to remain diligent by maintaining these completion rates as other training responsibilities are addressed. We also note that APD's use of force suite of policies are under revision. The original concept behind delivering force training in the 4 Tiers was good when it was first devised in 2018, so when the new policies are finalized, the Academy staff will have to quickly assess to what extent all four tiers need to be adjusted to stay compliant with the CASA.

Additional Observations

For the past several years, the monitoring team has urged APD's Academy to impanel a Training Committee to draw together stakeholders from across the organization when identifying specific needs in the field. If done properly, this can be a key feature in Step 1 of APD's own 7-Step Training Cycle. Until recently, the Academy's efforts have never taken hold, but in April 2022, the Training Committee took a step forward by holding their first Training Committee meeting. We reviewed records from the meeting, which was well attended and represented a good cross-section of APD commands. The purpose of the initial meeting was to orient people chosen by their given commands (to be liaisons) with the Academy's expectations for future meetings. APD's most significant struggle in their application of the 7-Step Training Cycle has been their ability to collect baseline data throughout the organization. We see the Training Committee as an excellent way to identify the needs of the department and transform those needs into meaningful training.⁶²

We noted in IMR-15 that Closeout Memos had become a part of the APD Academy business process, but they had also become somewhat *pro forma*. During this monitoring period, we believe in direct response to recommendations made by the monitoring team, the Academy has greatly enhanced the quality and scope of its Closeout Memos. We felt that Closeout Memos (or Status Update Memos) would be beneficial by telling the story of a particular training program as an After-Action Report and contain information that could serve as a component of subsequent needs assessments. Closeout Memoranda prepared for training we reviewed this monitoring period include a great deal more relevant information and will serve as an excellent exemplar of compliance for the organization.

The Academy has created and implemented procedures and forms entitled:

(1) "APD External Training Student Acknowledgement Statement" for APD personnel to complete when they attend training provided by third parties. This ensures officers understand their requirement to adhere to APD SOPs and procedures to the extent the training they attended gave instruction inconsistent with department SOPs and CASA requirements; and

⁶² By establishing baseline data APD's Academy will be able to later measure the degree of the effectiveness of its training programs on behaviors in the field.

(2) “Vendor Curriculum Review Form” that is prepared by APD’s Curriculum Development Manager when third-party vendors are being considered to give instruction to APD personnel. The form specifically calls out that once reviewed, the training can be approved, disapproved, or, when necessary, the vendor can be required to adjust the training consistent with APD policy and procedures.

These administrative measures are important to APD’s long-term success and have been recommended for years by the monitoring team. How officers are trained can influence their behaviors in the field, and this type of departmental oversight will help to quickly identify and remediate issues before they become problems. We are highly encouraged that the current Academy staff has implemented these procedures.

We reviewed detailed internal memorandums prepared by the Academy Commander advocating for additional staff to ensure training requirements remain on a positive trajectory in terms of CASA compliance. We highly encourage APD’s Chief of Police to continue to take cognizance of Academy staffing needs and not to allow the department to relax its commitment to those needs, considering recent CASA compliance accomplishments.

APD’s compliance standing for Paragraphs 86 and 87 has been sustained at the Operational Compliance level for this reporting period. Paragraph 88 maintained its Primary Compliance. Based on the diligence of the Academy staff over the past 12-15 months, we are significantly more sanguine about the Academy staff’s abilities and vision. We will report on the progress of Paragraph 88 in greater detail in the next monitor’s report as additional data become available. The monitoring team remains committed to continuing its technical assistance to help guide APD’s training staff toward further success.

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**

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 Paragraph 88:

4.7.73-75a: APD should devise and implement a cogent plan to address use of force training requirements for 2023 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. The goal of sustaining Operational Compliance of Paragraphs 86 and 87 should be paramount. 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 staffed to ensure the quality of training curriculum and to ensure training systems are not negatively impacted due to staffing shortages. Staffing should contemplate the Academy’s ongoing, annual training responsibilities relevant 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’s Training Committee meetings should occur on at least a quarterly basis until operational compliance is achieved in the field.

4.7.73-75e: Ensure that the Academy is the central point for review and approval of all training development and delivery processes for APD.

4.7.73-75f: APD should continue to carefully review training that is developed from sources outside the Academy before it is delivered to the department, regardless of its origin. Training programs should be developed based on best practices and APD policy and must adhere to the requirements of the CASA.

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.

Results

The Firearms staff should be commended for the continued and expanded use of technology and data-driven decisions observed over the past few reporting periods. The staff has revised the Enterprise Learning Management database 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.

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.

During our May 2022 site visit members of the monitoring team met with APD's Special Operations Division (SOD) personnel responsible for the tasks associated with these paragraphs. The people within the command structure of SOD, and the Deputy Chief over SOD, remained stable through May 2022, at which time there was a transition with a new SOD Commander and Deputy Commander. Both individuals have backgrounds in SOD-type operations from other police agencies in the state, but this is the first time the monitoring team can recall that both the Commander and Deputy Commander were replaced in this manner. We have called out the importance of these positions numerous times in the past, and have identified the importance of choosing people who possess the organizational maturity and sophistication to oversee a function so vital to CASA compliance. We highly encourage the new commanders to be inquisitive and review sections of past monitor reports related to SOD.⁶³ Likewise, perspectives of CASA compliance should be drawn from as many sources as possible to form a clear understanding of how to sustain CASA Compliance.⁶⁴ As we have commented

⁶³ That requires looking at more than just SOD paragraphs. For instance, the issue of "layered response" emerged during reviews by the FRB. Likewise, the previous commander was quick to self-identify and address behavior and performance issues and report them to the monitoring team. That type of proactive supervision is exactly the type of activity the CASA is meant to influence.

⁶⁴ We met with the new SOD Commanders during our site visit, but the meeting was led by the outgoing Commander. As of the writing of this report the monitoring team has not been contacted by either of the new SOD commanders to gain perspective from the monitoring team. While not required, this is the first time since the beginning of the CASA that has occurred.

numerous times in the past, SOD should remain vigilant in its oversight of reforms. While there have been sustained Operational Compliance findings within SOD for many monitoring periods, issues have emerged on that path that was self-identified by SOD and addressed by SOD Commanders and the FRB, and those proactive remediation steps were considered during our Operational Compliance determinations. Complacency at the Command level of SOD could impact compliance in CASA paragraphs that are not specifically assigned to SOD. For instance, uses of force during SOD deployments set in motion responsibilities contained in CASA paragraphs related to IAFD, IAPS, FRB, and supervisory personnel throughout the department. We strongly suggest that these factors be considered routinely by APD.

As noted in IMR-15, SOD had lost personnel to transfers out of the Division, which was mainly attributed by the SOD Commander to a closer supervisory oversight and accountability of SOD personnel. However, the Commander reported a significant increase in interest by APD officers to be assigned to the Division and advertised vacant positions are now being applied for in large numbers. This has contributed to an increase in staffing at SOD during the IMR-16 reporting period. Because of staffing shortages, APD has relied on assistance from allied agencies when tactical deployments are necessary. Based on our observations during this reporting period, SOD oversight maintained administrative and operational processes to sustain CASA compliance. We comment below on areas of success and call out issues on which SOD should focus for future sustainment.

Findings related to Paragraphs 90-105 are discussed below.

SOD previously established administrative business processes that helped them obtain Operational Compliance, and that continued during this reporting period.

In IMR-15 we noted that the quality of SOD After-Action Reports (AAR) remained acceptable, with one noteworthy observation. We saw instances where the authorization for a use of force was documented, but the identity of who approved the force was ambiguous.⁶⁵ We believed that considering the length of time SOD spends on some deployments, the fact that several layers of supervisors can be on scene, and with multiple agencies contributing tactical resources to incidents, this subtle factor can be important for APD. Also, during the last monitoring period, we collaborated with EFIT regarding SOD AARs and discussed whether they could be used as the Incident Commander 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 an Incident Commander, which makes the specifics within the AARs even more important.⁶⁶ These combined factors make the attribution of use of force authorizations within AARs crucial. The style of APD writing that failed to make specific

⁶⁵ For instance, the author of a report would write, "the use of force was authorized" instead of "I authorized the use of force". We understand that APD officers feel it is implied that the author of the report authorized the force, but that is insufficient. This should be specifically articulated in reporting processes.

⁶⁶ On March 11, 2022, APD promulgated Special Order 22-34, "Amendment to SOP 2-57 Use of Force: Review and Investigation by Department Personnel; Tactical Activations" that addressed this issue.

attributions of authorizations was encountered early in the CASA and was improved, up until those most recent observations. When the monitoring team first observed the issue (while preparing IMR-15) it was immediately brought to the attention of EFIT and APD's SOD Commander. We provided our perspective and technical assistance for addressing AAR wording and, as in the past, the SOD Commander was quick to address the issue. By the time we communicated our concern to APD, the IMR-16 monitoring period was already two months underway. We note that although the issue raised is important, the good quality of the AARs otherwise remained stable.

The monitoring team requested AARs prepared during this monitoring period and was provided twenty-six SOD AARs that resulted from tactical activations. SOD continues to document (in significant detail) the sequence of events and thought process a supervisor goes through when decisions are made at the scene of tactical deployments, and in most instances properly attributed decisions to authorize a use of force by specific people were documented. Early in this monitoring period, we saw AARs without proper attribution of who authorized a particular use of force, and in others, we saw intermittent attribution within the same AAR. However, in response to our communication to SOD they quickly adopted a practice of including the following opening paragraph within each AAR:

“During APD Tactical activations, all actions are requested through and authorized by the APD tactical commander. The only exceptions to this practice are those rare instances where an officer, APD or otherwise, perceives an immediate threat that they feel they must immediately address, and time does not allow for authorization. It should be noted that all actions to include the use of force documented in this AAR were authorized by [APD Commander Name Inserted] unless otherwise specified.”

The above-listed paragraph became standard in AARs during the second half of the IMR-16 monitoring period, and the result is a clearer understanding of the actions an Incident Commander took at the scene of a SOD activation. This was particularly relevant with one SOD deployment that occurred on July 5, 2022, in which an allied agency assisted with a barricaded subject for several hours.⁶⁷ Over the course of the event, numerous decisions and authorizations occurred to use force and deploy NFDDs to cause the occupants of the home to exit and taken into custody. The event included actions by both APD and the assisting police agency and ended when a fire ignited in the home. One subject was taken into custody and a second was found deceased inside the residence. The incident is still under review, so the monitoring team will reserve comment. However, it serves as a prime example of the importance of being clear about scene management and who gives authorizations during the event.

During our site visit, we learned that SOD is experiencing increased interest by officers in the field and the number of applicants to be assigned to SOD is at levels not seen in recent history. Due to a loss of personnel, SOD has relied more heavily on the

⁶⁷ APD Incident [IMR-16-26].

assistance of tactical units from other agencies, but APD's interest is to return to a state of general self-reliance when responding to tactical calls for service. We feel that would be in the best interest of APD's CASA compliance. While the current staffing level sits at ten (10) assigned to SWAT⁶⁸ we were told that the Chief of Police has authorized as many as sixteen (16) officers for the assignment.⁶⁹

The use of "Tactical Activation Packet" and "Tactical Assist" cover sheets for AARs continued throughout the reporting period, and serve as good checks and balances during command reviews following an event. The timeliness of After-Action Reports continued, and with AARs being used as a supervisor narrative when documenting force, the timeliness will become even more critical. 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 14 days, inclusive of cover memorandums that are prepared by the SOD Commander for the Force Review Board. (P96-97)

During this monitoring period, we followed up on the working relationship of ISD (previously SID) and SOD. As we noted in IMR-15, in January 2022 a member of the monitoring team was asked to take part in meetings between Deputy Chiefs who oversee SOD and ISD to seek technical assistance.⁷⁰ Both commands are genuinely interested in personnel safety, operational effectiveness, risk mitigation, and CASA compliance. That said, there are instances where the two commands differ in opinion on the proper handling of an incident and to what extent SOD should be involved. Specifically, when scoring the Risk Assessment Matrix (RAM) for instances of preplanned search warrants, issues arise when ISD believes the situation calls for SOD to deploy, but SOD assesses the same information and scores the RAM below their deployment threshold.⁷¹ These conversations continued into the IMR-16 reporting period and the two APD Divisions collaborated to adjust the Risk Assessment Matrix.⁷² On April 5, 2022, the updated RAM was promulgated to provide a better balance between the two commands' expectations. However, situations encountered where an internal difference of opinion emerges will only be resolved by these commands first considering what is in the best interest of the organization. APD responds to a wide array of events with sometimes complex variables that do not fit neatly into a standing protocol, and in the end, some APD unit will have to address that event. We understand concerns that have been raised by APD commanders as well as the DOJ about the proper use of SOD personnel. While certain parameters are in place, choosing the unit that possesses the right training, and experience, and is correctly equipped to handle a given situation will be challenging at times. The CASA is meant to condition the type of

⁶⁸ Source: A table of organization provided to the monitoring team by APD, dated 8/13/2022.

⁶⁹ That staffing number does not include officers assigned to the K9 or Bomb Units which are additional resources within SOD.

⁷⁰ 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.

⁷¹ Historically, SOD response protocols required a score of 25 points or above on the RAM to authorize a tactical deployment.

⁷² The monitoring team was consulted as the modifications were made and were provided a final draft for review and approval.

supervisory and command oversight that ensures decisions contemplate what matters most in each situation.

In IMR-15 we noted that 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 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)

We reiterate, properly defining “tactical responses” is key to APD successfully moving forward, as it will inform several decisions.⁷³

As referenced above, ISD consults with SOD for specific types of search warrants and is required to fill out a Risk Assessment Matrix (RAM)⁷⁴ to determine if they are required to call out SOD. During the IMR-16 reporting period, we reviewed data for six (6) separate events and seven (7) RAM audits prepared by SOD.⁷⁵ Our review of RAM audit documentation revealed the process put in place to oversee the 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 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 demonstrate 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. 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 attended basic tactical courses throughout this monitoring period, and the Division will continue to build the capabilities of its personnel to become self-sufficient.

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

⁷³ The issue of defining “tactical response” was again discussed among the parties following the close of IMR-16. We recommended that APD propose language that the monitoring team and DOJ can consider based on the original intent of the term when included in the CASA.

⁷⁴ 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).

⁷⁵ Three (3) audits were prepared for CID and four (4) for ISD during this monitoring period.

includes goals, objectives, and measures for the training they provide.⁷⁶ We encourage SOD Commanders to revisit past technical assistance and monitor reports, in particular IMR-15, for guidance on ways to enhance the quality of routine training sessions. We did note several training sessions were conducted with allied police agencies. This type of cross-training is critically important while APD continues to work and increase its staffing.

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. In IMR-15, we noted several policies were due for renewal, and we were told the SOD policies were at various stages of completion. Parenthetically, following the close of this monitoring period, we discussed the status of current SOD-related SOPs with the Deputy Chief overseeing their operation and the Deputy Chief overseeing CASA compliance. A couple of factors have delayed a few policy updates: (1) SOPs may be out of date but have been updated by extension through the promulgation of different Special Orders (which have been extended), and (2) APD was engaged with a K-9 specialist who was providing consulting services and the agency is awaiting a written report of their findings. The following was the information provided to the monitoring team by APD regarding the status of SOD SOPs.

4.7.73: Status of SOD Operating Policies

Policy Number	Name	Effective Date	Review Date
1-42	Bomb Squad	2/16/2022	2/16/2023
1-64	K-9 Unit	11/8/2019	11/8/2020 ⁷⁷
1-92	Specialized Tactical Units	7/9/2020	7/9/2021
1-96	Crisis Negotiation Team (CNT)	8/3/2022	8/3/2023
2-20	Hostage Situations, Barricaded Individuals, and Tactical Threat Assessments	4/13/2022	4/13/2023
2-23	Use of Canine Unit	1/10/2019	1/10/2020 ⁷⁸
2-25	Bomb Threats and Bomb Emergencies	7/17/2020	7/17/2021
2-70	Execution of Search Warrants	10/6/2021	10/6/2022

⁷⁶ We noted a subtle increase in the amount of detail SOD included in their routine training documentation. As previously noted, 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. This included, for instance, the measurement of a transfer of knowledge indicated as "practical demonstration" and "group discussion" without underlying scoring sheets.

⁷⁷ Special Order 22-05 (Amended) was promulgated on April 8, 2022.

⁷⁸ Ibid.

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. At the early stages of this 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. SOD policy was not to 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 criteria at the time, but later did respond when the subject moved from his vehicle to a 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 provided our perspective regarding the efficacy of APD’s approach to such situations. On July 29, 2022, APD promulgated Special Order 22-93 which provides better latitude to SOD personnel when a person has barricaded themselves in a vehicle and the incident meets SOD’s traditional call-out requirements. (P93–95; 100).

We reviewed Monthly Inspection Reports that were completed for February 2022 through July 2022 and determined that SOD continues to capture information regarding uniform cleanliness and completeness, equipment, as well as 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-16 reporting period. Tactical activations are presented by a member of SOD, whereas any accompanying use of force is presented by IAFD. The FRB is responsible to make recommendations where concerns exist with policy, training, tactics, or supervision. During this monitoring period, we attended meetings (virtually) where SOD tactical presentations occurred and found them to be professionally delivered. As we have commented in past monitor reports, SOD tracks their activations closely, and preliminary reviews of uses of force are still being conducted by the SOD commander prior to tactical deployments being presented to the FRB. This practice provides an opportunity to sift out potentially problematic cases where force is used and, when encountered, that a smaller population of tactical deployment cases can be heard together (with the use of force). Records the monitoring team reviewed, including FRB Meeting Agendas and presentations indicated 24 tactical deployment cases were heard by the FRB during this monitoring period. Generally, cases are heard within three months of the initial call for service, with several reaching the FRB within approximately one month. That pace provides the FRB quick situational awareness of SOD operations, and an opportunity to uncover potential problematic issues expediently. APD, with the help of PMU, implemented a new tracking system for data governance and transparency. With this new tracking system, the FRB administrator can document referrals that are generated during meetings, assign appropriate deadlines, and track those referrals until they are closed by the FRB.

As documented in IMR-15, we reviewed Annual Assessment Reports completed for each SOD unit, and its personnel. We continue to encourage APD to look deeper at Division and Unit level policy provisions to ensure their personnel are being assessed by correlating predetermined criteria.

The monitoring team reviewed SOD Tactical Unit Deployment Tracking Sheets for the monitoring period. For this reporting period, SOF reported 26 tactical SWAT activations. 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. Previously, 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. We previously found the 2021 Annual Report to be professionally presented and an excellent document for historical reference⁷⁹ (P95-97; 102 - P105).

APD continues to track K9 deployments and bite ratios consistent with monitor-approved methodology. The monitoring team reviewed K-9 Bite Ratio reports, post-bite reviews, and tracking ledgers documenting SOD K-9 handlers and K-9 bite ratios. One (1) K9 handler was reported as having a bite ratio exceeding the 20% threshold in one month and in a May 16, 2022, internal memorandum SOD documented that the K9 handler had been on light duty for most of the month and only deployed one time. That single deployment resulted in a K9 bite, however, the six-month rolling average for that same officer did not exceed 20%.

The monitoring team reviewed nine (9) K9 Bite Reviews for deployments that occurred during this monitoring period. We want to call attention to an area of potential conflict that could occur during the preparation of post-deployment reviews by SOD. The conflict may arise between findings of the appropriateness of K-9 deployments by SOD when compared to IAFD/EFIT findings during an ensuing use of force investigation. Paragraph 102 states, "APD shall continue to require the Canine Unit to complete thorough post-deployment reviews of all canine deployments." At the onset of the CASA, we understood the importance of this review because of the specialized training K9 supervisors receive regarding the handling of Patrol Service Dogs (PSD). There are instances where their perspective could be valuable to an investigator when assessing the appropriateness of a use of force by a K9 handler. Historically, reviews were completed in concert with APD personnel responsible for investigating uses of force involving canine bites.⁸⁰ Contemporary use of force investigations are more thorough and better documented than in the past, so we highlight here the importance of APD ensuring that two organizational entities are not creating conflicting records of the same events. Likewise, the overall efficiency of work that is created within APD is worthy of examination, as there appears to be duplicative effort to document or assess the same event. In K-9 post-deployment reviews, we saw obligatory statements that the use of

⁷⁹ 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 is 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.

⁸⁰ The investigations of serious uses of force (a term from the original policy) and current Level 3 uses of force have been investigated by organizational units by different names (i.e., CIRT, IAFD).

force would be investigated by IAFD/EFIT, but the reviews contained such affirmative statements that the actions of the K9 handler were "...lawful, appropriate and within established policies..." to include SOP 2-52 Use of force. This is said within the context of other statements, in the same review, by a SOD Commander. He stated that "The deployment of the PSD was within current department policy requirements", but also, "The Bite Review is not a force investigation which is under the authority of IAFD and EFIT. I have not completed a thorough investigation into the use of force and am unaware of any SOP violations related to the force investigation at the time of this memorandum."⁸¹ These latter conflicting statements create obvious issues and could undermine thorough investigations being conducted elsewhere by IAFD and EFIT.

SOD continued to demonstrate a positive attitude toward CASA compliance and a commitment to sustaining CASA compliance. In the opinion of the monitoring team, that commitment was sustained for IMR-16. 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

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:

⁸¹ Example: Case [IMR-16-25].

“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 continued with a thorough review of training records for SWAT, K9, and Bomb Units for this reporting period as in previous reporting periods. APD Special Operations Division maintains meticulous records throughout the Field Training and Evaluation Program via the SWAT, Bomb Unit, K9 Unit, and OJT Handbook for individuals completing the program. For this reporting period, SWAT had nine members on OJT, K9 had two members, and Bomb had two members. At the time of this report, SWAT had one of the members on administrative absence, and one member completed the training (6-25-2022). The remaining members on OJT are scheduled to complete their training during the next two reporting periods.

The monitoring team reviewed material required for APD to maintain compliance with paragraph 91 for the reporting period (February 1, 2022, through July 31, 2022), in the forms of policy, programs, and results.

The documentation reviewed contains, but is not limited to;

- Activation Ledger (dates, locations, CAD # assigned, and case number assigned);
- Activation Analysis (date, address, criteria for deployment, mental health, people, domestic animals, forced entry, tactical equipment utilized, use of force);
- Activation Data (date, location, case number, subject name, charges from the warrant, arrest warrant, search warrant, 10 code from Field CFS, unit requesting assistance, direct request, mutual aid, was force used, pre-planned, CNT involved, contact to CNT, the outcome of activation); and
- Training Ledger (joint training info, SWAT, K9, Bomb, operational functions trained).

Specialized Weapons and Tactics:

- Command and Control;
- Containment;
- Entry;
- Apprehension;
- Rescue;
- Weapons Proficiency;
- De-escalation;
- Use of Force;

- Crisis Intervention;
- Mission Analysis; and
- Defensive Tactics.

K9 Unit:

- Area Search;
- Building Search;
- Obedience;
- Containment;
- Command and Control;
- Apprehension:
- Article search;
- Entry;
- Rescue;
- De-escalation;
- Use of Force;
- Crisis Intervention;
- Defensive Tactics; and
- Weapons Proficiency.

Bomb Squad:

- Render Safe Procedures;
- CBRNE Event;
- 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 for compliance with the requirements of the CASA.

Based on our review of records, SOD remains in operational compliance.

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

The SOD provided COB data, contemporaneous training documentation for their SWAT Unit, Bomb Squad, and K9 Unit, and Crisis Negotiations Training. The high level of training is evident in the material supplied and reviewed by the monitoring team from paragraph 91 of this report. As listed in that paragraph, the training covers numerous topics with ample time for all aspects of training. The ledgers for each month detailing the training delivered cover and exceed all requirements established by the CASA. During this reporting period, the monitoring team received for review:

- Bomb Unit 24 sessions of training;
- SWAT Unit 30 sessions of training;
- K9 Unit 32 sessions of training;
- Joint Unit training four sessions; and
- ROOK training 16 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 (February 1, 2022, through July 31, 2022).

SOD maintains clear and concise records with a detailed synopsis of their involvement in the events. The deployment is analyzed based on, but not limited to policy, training, equipment, and tactical issues/concerns. A review of the after-action reports shows minor concerns/ issues, which were immediately addressed after each incident.

Policy - No issues identified.

Training - No issues identified.

Equipment -

- Communications issues between agencies (two);
- Inoperable equipment due to non-usage (two);
- Having tactical equipment readily available;
- Need for gas mask voice amplifier;

Tactics -

- Delay in establishing tactical personnel due to having to wait for another agency for assistance;

SOD personnel continue to evaluate tactical requests to determine whether the request meets the activation criteria as required by the relevant SOP. The findings are communicated throughout the chain of command with documentation supporting the result.

SOD implemented one Operational Plan during this reporting period. The briefing was conducted with all members present prior to the start of the operation as required by the CASA. An overview, the objectives, the incident command, use of force and engagement, logistics, officers, call signs, and assignment as required for an operational plan were covered.

SOD continues to demonstrate a positive attitude toward CASA compliance.

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

All members of the SOD ascertain an understanding of operational planning through material interwoven throughout all training delivered daily and documented on the training records supplied to the monitoring team.

SOD implemented one Operational Plan 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);
- Overview;
- Objectives;
- Incident Command;
- Use of Force and Rules of Engagement;
- Location; and

- Personnel Assignment.

Special Operations extensive training at all levels conforms to best practices nationwide and to this paragraph's specifics.

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 Annual Assessments for APD SWAT Unit, K9 Unit, and Bomb Unit were received and reviewed by the monitoring team. As in past documentation received from SOD, the following criteria were reviewed:

- 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 SWAT, Bomb, and K9 units continue to display exemplary work in constitutional policing, integrity, community policing, and critical police functions. SOD remains in compliance with the requirements of the CASA and constitutes, in the monitoring team’s assessment, a best practice in the management of tactical units and its 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 documentation received and reviewed by the monitoring team for this reporting period continues to demonstrate the extensive training SOD requires all their personnel to receive regularly. This training is covered in great detail throughout paragraphs (90 thru 105). The aforementioned documentation (Training Ledger February 1, 2022 – July 31, 2022) demonstrates the operational functions trained are;

- Communications Procedures;
- Threat Assessment;
- Determination of criminal offense;
- Command and control;
- Containment;
- Forced entry;
- Apprehension;
- Rescue;
- Weapons Proficiency;
- De-escalation
- Use of Force;
- Other;
- Crisis Intervention;
- Integration CNT/CIT/CITO;
- Mission Analysis;
- Search warrant requirements prior to entry; and
- Defensive tactic

The training covers all the requirements of the CASA evidenced by these detailed reports, in accordance with national standards (National Tactical Officers Association) for high-risk tactical operations. The goals and objectives are 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.

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 2022 Tactical Activation Analysis for this reporting period (February 1, 2022, through July 31, 2022) consisted of twenty-six (26) 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 maintain the quantity, type, and characteristics of successful deployments. The Tactical Activation Analysis addresses the following:

- Date;
- Address;
- Criteria for deployment;
- Mental Health;
- Number of people;
- Domestic animals;
- Forced entry;
- Tactical equipment utilized; and
- Use of force.

Results

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

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)⁸² as follow:

⁸² 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.

Paragraph 106: Specialized Unit Policies
Paragraph 107: High Risk Situation Protocols
Paragraph 108: Inspection of Specialized Units
Paragraph 109: Tracking Specialized Unit Responses

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. ISD has maintained its adherence to those requirements over multiple monitoring periods. Based on our review of the documentation that was provided, those administrative underpinnings were sustained throughout the IMR-16 reporting period.

In past Monitor 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. While the quality of front-line supervision is essential in all organizational units, we see it as particularly important with investigative units since personnel assigned to those units likely have more time on the job and are typically given more autonomy when performing their duties. Use of force Operational Compliance determinations which will continue into the foreseeable future, will, in part, rely on investigative units remaining vigilant. Supervisors must ensure that provisions put into place over the past several years avoid "slippage" toward historically problematic practices. We encourage ISD commanders and supervisors to keep close oversight of their field operations for ISD supervision failures that could have detrimental implications on organizational goals. As we noted in IMR-15, particular attention must be given to establishing proper protocols, supervisory roles, and rules of engagement for hasty, ad hoc investigative initiatives that include multiple APD units. Any failures will likely reveal themselves during officer/detective uses of force when investigated and reviewed by IAFD, EFIT, and the monitoring team.

The Performance Metrics Unit (PMU) continued audits of ISD, and we reviewed records to confirm that the audits continued during the IMR-16 reporting period. In IMR-15, we noted that PMU documented issues with OBRD compliance, specifically requirements to upload videos by the end of the subsequent shift. In IMR-16, the PMU audits revealed improvement in that area. We noted an instance where an ISD unit failed to conduct the required number of OBRD reviews for a given period, but that was found in only one monthly audit and was not a trend during this monitoring period. The independent audits conducted by PMU are an excellent check and balance to ISD operations.

During our May 2022 site visit, we met virtually with the ISD Commander responsible for the tasks associated with CASA compliance.⁸³ The Commander came prepared to discuss ISD compliance and was conversant with the processes of the CASA and ISD responsibilities. His presentation was well organized and framed ISD's efforts to sustain compliance with relevant CASA paragraphs.

⁸³ Although we were in Albuquerque for the site-visit, a scheduling issue required us to meet virtually.

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 SID 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
7. Risk Assessment Matrix (RAM) forms and Ledgers and SOD Audit Memorandums; and
8. ISD Annual Reports.

The following represents our findings related to Paragraphs 106-109.

Regarding ISD and SOD cooperation during investigative operations, we previously reviewed internal ISD memorandums that documented their concerns. In January 2022, a monitoring team member took part in meetings between Deputy Chiefs that oversee SOD and ISD, after a request for technical assistance from the monitor.⁸⁴ The conversations continued into this monitoring period, and the two units worked together to revise a mutually acceptable Risk Assessment Matrix (RAM). In IMR-15, we noted that a key unresolved issue rested in the definition of what constitutes a “tactical response” in the context of CASA Paragraph 107.⁸⁵ While the issue of properly defining “tactical responses” is key, and revising the RAM was important, there will still be events ISD encounters that may better be addressed by SOD because of SOD’s specialized training and experience.⁸⁶ Conversations must continue on this topic among ISD and SOD executives to ensure that clear guidance is provided and that regardless of which unit addresses a particular event, strong supervision over the tactical progressions of that event will occur.⁸⁷ The ultimate goal of the coordination between these two

⁸⁴ 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.

⁸⁵ 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)

⁸⁶ Even after the close of this monitoring period we were still having conversations over instances that investigative personnel encountered that may be better addressed by SOD personnel (i.e. a barricaded person with numerous felony burglary warrants but without a history of violence).

⁸⁷ We discussed this in greater detail in IMR-15.

departmental Divisions should be to "...increase the likelihood of safely resolving a critical incident", as stated in Paragraph 107 of the CASA.

ISD consulted with SOD for specific types of search warrants during this monitoring period and completed Risk Assessment Matrices (RAM)⁸⁸ to determine if they were required to call out SOD. For the IMR-16 reporting period, we reviewed data for 12 separate events and three RAM audits completed and documented by SOD. The auditing of data by SOD continued appropriately during this reporting period. 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 across all ISD units. The handbooks from each unit serve several purposes, including ISD incorporating and reinforcing APD's use of force policies and the CASA provisions. The monitoring team was provided course of business documentation that allowed us to track initial Department Circulars announcing openings in ISD, through to an officer's assignment and initial training, for ten officers and supervisors. We also reviewed documents for three ISD personnel transferring out of the Division. We reviewed "Transfer In and Out Forms" that were completed and could cross-reference those forms against the same ISD personnel 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 February 1, 2022, and July 31, 2022, and found they contained the required information. We also reviewed two internal memorandums prepared by ISD (dated April 15, 2022, and July 20, 2022) of self-audits of SharePoint and RAM reports. These two memoranda documented the steps that were taken during the audit and revealed the SharePoint records had no discrepancies.

During the past several reporting periods, we commented that investigative Operational Plans and After-Action Reports needed improvement. For IMR-16, we reviewed eighteen (18) Operational Plans and forty-eight (48) After-Action Reports prepared within ISD. ISD previously implemented a standard After-Action Report that consisted of a checklist and narrative that resembles APD's use of force reports. The report provides detectives an opportunity to include relevant information related to a particular event and document areas of improvement to policy, training, or operational methods. As noted in IMR-15, we saw examples where the After-Action Report contained good detail and others where there was scarce detail.

⁸⁸ 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). During this monitoring period ISD and SOD worked together to update the RAM in a manner that was satisfactory to both units.

The monitoring team was provided with the ISD 2021 Annual Review during the last monitoring period.

Based on our review of documentation, 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

During the June 2022 site visit for this reporting period, the monitoring team conducted a physical inspection of equipment assigned to ISD and stored in their secure locker room to determine whether weapons and equipment assigned or accessible to specialized investigative units are consistent with the units’ mission and training. The equipment inspected included, but was not limited to:

- Long rifles;
- Shotguns;
- Back-up weapons; and
- Forty (40) mm launchers.

The documentation reviewed by the monitoring team supports the findings that all equipment in storage was accounted for and properly stored.

Additionally, an Interoffice Memorandum dated February 8, 2022 (Yearly Inspection of all division Units) states that equipment assigned to all units within ISD was located and verified. The monitoring of these inspections continues on an annual basis. ISD property cards for each randomly selected member of ISD were utilized to ensure that each member had possession of all assigned equipment corresponding to itemized equipment on cards. The Memorandum was utilized by the monitoring team for IMR 15, and it is still valid until the next yearly report due in the next monitor reporting period. 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**

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 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 some tragic outcomes during this reporting period.⁸⁹ APD's responsiveness to some of our recent recommendations is commendable, and we appreciate the consistently high quality of APD's crisis intervention-related policies and training.

The monitoring team also notes that the City of Albuquerque's Community Safety Department (ACS) is operational, responding to calls for service.⁹⁰ This separate, non-sworn department aims to respond to some of the calls for service that may have garnered an APD response. The monitoring team will continue to be mindful of the overlapping responsibilities (if any) among the Mobile Crisis Teams (MCT), COAST, and ACS responders. See our analysis of Paragraphs 111, 113, and 130 below.

We also note the City's progress in implementing a homeless shelter during this reporting period, conducting a survey about what types of services people would like to see at Gateway Center and providing details about the planned phased opening.⁹¹ The first available beds and police drop-off facilities should be online this coming winter.⁹²

Results

We appreciate APD's efforts to review, revise, and bring all of the policies relevant to their responses to people in crisis up-to-date. Further, these policies now have similar review dates, so the CIU's review cadence for these policies will be more uniform, hopefully preventing any policy review due dates from slipping past.

We also appreciate 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.⁹³ We look

⁸⁹ September 5, 2022. "APD says shooting at NW apartment complex was mental-health related," Stephanie Muniz, *KOAT Action News*, accessible at <https://www.koat.com/article/deadly-officer-involved-shooting-near-apartment-complex/41069708>. See also April 15, 2022. "Details on fatal police shootings are released," Matthew Reisen, *Albuquerque Journal*, accessible at: <https://www.abqjournal.com/2489310/apd-detail-fatal-police-shootings-from-march.html>.

⁹⁰ August 24, 2022. "'Third Branch of Public Safety' Thrives in Albuquerque," Joseph Kolb, *The Crime Report*, accessible at: <https://thecrimereport.org/2022/08/24/third-branch-of-public-safety-thrives-in-albuquerque/>. See also August 30, 2022. "One year in: What is Albuquerque's social worker emergency response team doing?" Chris McKee, *KRQE News*, accessible at: <https://www.krqe.com/podcasts/one-year-in-what-is-albuquerques-social-worker-emergency-response-team-doing/>.

⁹¹ February 28, 2022. "Gateway Center to open in phases, 1st phase for women only," Adriana Kraft, *KRQE News*, accessible at: <https://www.krqe.com/news/albuquerque-metro/gateway-center-to-open-in-phases-1st-phase-for-women-only/>.

⁹² September 3, 2022. "ABQ Gateway Center likely to open sometime this winter," Jessica Dyer, *Albuquerque Journal*, accessible at: <https://www.abqjournal.com/2529657/abq-gateway-center-likely-to-open-some-time-this-winter-ex-mayor-say.html>.

⁹³ 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

forward to a smooth review process in 2023 when these policies are due for review. See Table 4.7.97.

Table 4.7.97 Policy Renewal Status for Behavioral Health Policies

Policy	Policy name (Relevance to 110) and Status
SOP 1-20	BEHAVIORAL SCIENCES SECTION. APD's online SOP Manual ⁹⁴ indicates this policy was Effective 5/6/22 and is due for review on 5/6/23. This policy is currently up-to-date.
SOP 1-28	DOWNTOWN UNIT. APD's online SOP Manual indicates this policy was Effective 5/9/22 and is due for review on 5/9/23. 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 5/2/22 and is due for review on 5/2/23. This policy is currently up-to-date.
SOP 2-8	USE OF ON-BODY RECORDING DEVICES. APD's online SOP Manual indicates this policy was Effective 5/2/22 and is due for review on 5/2/23. This policy is currently up-to-date.
SOP 2-19	RESPONSE TO BEHAVIORAL HEALTH ISSUES. APD's online SOP Manual indicates the most recent version of this policy was Effective 5/3/22 and is due for review on 5/3/23. This policy is currently up-to-date.
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 4/13/22 and is due for review on 4/13/23. This policy is currently up-to-date.
SOP 2-85	CERTIFICATES FOR EVALUATION. APD's online SOP Manual indicates the most recent version of this policy was Effective 2/28/22 and is due for review on 8/28/22. This policy is currently up-to-date.

Overall, we note that the APD has certainly succeeded in its efforts 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” as this paragraph requires. Throughout the CASA reform process, we have seen APD implement well-crafted behavioral health and crisis response policy and training; implement a robust mobile crisis team program; launch a Law Enforcement Assisted Diversion (LEAD program); and collaborate effectively with MHRAC (see Paragraph 111). We remain somewhat concerned about this paragraph’s requirement

invited to attend OPA and PPRB.” Accessible at: <https://documents.cabq.gov/police/standard-operating-procedures/3-52-policy-development-process.pdf>

⁹⁴ The APD's online Standard Operating Procedures may be accessed at:

<https://www.cabq.gov/police/standard-operating-procedures/standard-operating-procedures-manual>.

for APD to “minimize the necessity for the use of force against individuals in crisis due to mental illness or a diagnosed behavioral disorder.”

Results

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

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 for service involving mental health, crisis, 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. The Behavioral Health Division, Crisis Intervention Division Handbook underwent a thoughtful revision during this reporting period (dated June 6, 2022).

However, 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 communities APD serves. 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 including MHRAC; 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 to actively address crisis response and homelessness issues during this reporting period. New MHRAC Co-Chairs Rachel Biggs and Max Kauffman continued to hold monthly MHRAC meetings online with excellent community engagement. The independent monitoring team thanks former longtime MHRAC Co-Chairs for their service. MHRAC meetings and sub-committee meetings, as always, included thoughtful and 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 the City and APD’s operational strategies relating to mental and behavioral health, crisis intervention, and unsheltered individuals. We encourage the City to engage with the MHRAC early and often as it considers new strategies for complex problems. Of particular value to the City, we note that the MHRAC recently began posting its policy recommendations on its website.⁹⁵

Methodology

In assessing compliance with this paragraph, the monitoring team attended monthly online MHRAC meetings via Zoom, spoke with members of MHRAC, and reviewed the following documentation:

- MHRAC’s reports, recommendations, communications, and processes during this reporting period;
- Meeting agendas and minutes for MHRAC meetings;⁹⁶
- Meeting agendas, minutes, and recordings for subcommittee meetings;
- Various communications regarding policy and/or training reviews between APD and MHRAC.

Results

⁹⁵ See MHRAC Policy Recommendations at: <https://www.cabq.gov/mental-health-response-advisory-committee/mental-health-advisory-committee-policy-recommendations>.

⁹⁶ MHRAC meeting agendas and minutes are available at: <https://www.cabq.gov/mental-health-response-advisory-committee/mental-health-response-advisory-committee-agendas-minutes>

The monitoring team remains encouraged by the stable membership of MHRAC and the robust attendance at MHRAC meetings during this reporting period. 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 and subcommittee meetings.

During the last few reporting periods, the MHRAC discussed its bylaws⁹⁷ (which haven't been updated since 2016). However, during this reporting period, the discussion focused more on the possibility of introducing a City ordinance to codify MHRAC's responsibilities. Those conversations are ongoing.

In addition to the topics discussed during MHRAC meetings, a review of emails and other communications demonstrated that MHRAC members also continued to address many important 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 at Gibson Health Hub homeless shelter. The confusion about whether and how MHRAC would be involved in the development and implementation of ACS and the Gateway Center seemed to dissipate considerably during this reporting period, with ACS submitting policies to MHRAC for input. Communications among all City entities involved in crisis response continue to improve.

Table 4.7.98a presents a synopsis of MHRAC engagement during the reporting period.

See table below.

⁹⁷ MHRAC's bylaws are available on the City's website at <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.

Table 4.7.98a Dates and Topics of IMR-13 Reporting Period MHRAC Meetings

Reporting period month	Meeting date	Issues discussed
February 2022	2/15/22	Policy Discussion (SOP 2-18); ACS update; Gateway Center / Gibson Health Hub update; APD CIU update; APD Wellness program presentation; sub-committee updates
March 2022	3/15/22	ACS update; Gibson Health Hub / Gateway update; MHRAC City Ordinance recommendations; APD LEAD presentation; APD CIU update; sub-committee updates
April 2022	4/19/22	ACS update; Gibson Health Hub / Gateway update; MCT training update; APD CIU update; COAST update
May 2022	5/17/22	ACS update; Gibson Health Hub / Gateway update; APD CIU update; COAST update; sub-committee updates
June 2022	6/21/22	ACS update; Gibson Health Hub / Gateway update; Policy discussion (SOP 1-53; ACS SOP 2-20; ACS SOP 2-27); APD CIU update; COAST update; sub-committee updates
July 2022	7/19/11	ACS update; Gibson Health Hub / Gateway update; APD CIU update; COAST update; subcommittee updates

Table 4.7.98b: MHRAC Subcommittee Meeting Dates and Topics

Subcommittee	Issues discussed
<i>Policy, Information Sharing & Resources</i>	Held meetings in February, March, April, May, June, and July 2022. This subcommittee focused on policy review feedback (SOP 2-80 Arrests, Arrest Warrants, and Booking Procedures, which guides procedures for checking “mental illness history” when serving an arrest warrant and guidance around transport for mental health evaluation; SOP 2-53 Use of Force Definitions, which refers to SOP 2-19; updating the community resource cards (the latest version is dated 4/1/22), ⁹⁸ ACS policies, MCT policy, SO 22-46 Process for Responding to an Unlawful Encampment on Public Property
<i>Training</i>	Held meetings in March, May, and July 2022. The subcommittee focused on the APD’s training video on barricaded suicidal individuals, the APD’s reality-based training unit, training issues regarding APD, AFR, and ACS calls for service, review of the MOE training curriculum, SOP 2-82 (Restraints and Transportation of Individuals, which guides procedures for officers regarding “involuntary transport for a mental health evaluation”), updates on APD’s progress on ECIT curriculum revisions

ResultsPrimary: **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

⁹⁸ The MHRAC / APD Resource Card is accessible at: <https://www.cabq.gov/help/documents/abq-resource-card.pdf>.

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

The monitoring team reviewed MHRAC’s current membership rosters (current as of May 2022), agendas, and meeting minutes (which include attendee names and affiliations) for monthly meetings 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.

During this reporting period, the monitoring team saw an improvement in collaborative conversations anchored in principles of 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 – at least among MHRAC, ACS, AFR, APD, and Family and Community Services (FCS, which is leading the development of the Gateway Center).

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, including the Mayor's office and City executives. Please see Paragraph 111 above for the monitoring team's additional observations about MHRAC.

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 MHRAC's reports, recommendations, communications, and processes during the reporting period, as well as key APD memoranda, assessing these documents for compliance with Paragraph 114. We also reviewed the updated APD SOP 2-19 *Response to Behavioral Health Issues*, which was implemented during this reporting period (Effective date 5/3/22).

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. It 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 per the MOU.

During this reporting period, APD revised 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 the Health Insurance Portability and Accountability Act (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 during the last reporting period. Further, the Commander of the Crisis Intervention Division inquired about violations of confidentiality by contacting APD's IAPS and found no such violations in IAPro.

Throughout this monitoring period, the monitoring team has also tracked the information sharing between the City/APD and UNM Hospital, in which CIU clinicians have shared information weekly. Further, the CIU continued communicating with Presbyterian Kaseman Hospital and Lovelace Health System to maintain solid relationships in order to address any confidentiality issues should they arise.

We note that APD's existing mental health training courses contain content regarding the MOU between APD and the University of New Mexico. Further, the CIU Commander reviewed APD's internal affairs records to ascertain whether APD any violations of the existing confidentiality processes had been reported.⁹⁹ There were no such complaints or requests to investigate violations of confidentiality.

Further, in March 2022, a Deputy Chief sent a department-wide email reminding officers not to transmit any personally identifiable information (PII) over unencrypted radio systems. The monitoring team appreciates the attention and reminders about this important issue.

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

Recommendations for Paragraph 114:

4.7.101a: Monitor in-field results of finalized protocols and adjust as needed based on in-field activities and extant needs.

⁹⁹ IAPS personnel queried IAPro for reported violations of APD SOP 2-19-12 "Confidentiality, Communication, and Behavioral Health Emergencies," and found none.

4.7.101b: The City should seek clear guidance from the Advisory Committee (MHRAC) about its current 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” regarding whether additional considerations are necessary.

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, COAST, and APD.

Results

APD continues to collect and analyze 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 share the data with MHRAC to seek its guidance. In March 2022, APD shared the *2021 Annual Report on Behavioral Health Related Incidents in Albuquerque* with members of MHRAC. The *2021 Annual Report* includes data from January 2021 – November 2021, prior to this reporting period. We remain concerned about APD’s capacity to analyze data and present it to MHRAC regularly and in a timely manner. We hope that the APD’s Accountability and Analytics Bureau prioritizes providing the necessary data to MHRAC on a regular cadence.

APD continues to provide all behavioral health training curricula (including updates and changes) to MHRAC for review when necessary. For example, during this reporting period, the CIU identified a training gap and moved swiftly to address it after sharing its plan with the MHRAC. Specifically, CIU identified a training video showing an example of another department’s interaction with an individual living with dementia. During that video, it was explained that sometimes the officer or person interacting would “play

along” with the delusion by pretending to be someone else. The APD quickly recorded a video to correct that direction – clarifying that APD officers are trained (in CIT training) not to “buy into” delusions when encountering these situations. APD officers are to identify themselves appropriately as officers with APD and acknowledge what the person believes, sees, or hears. The correctional training video goes on to state, “It is ok to let them know you do not hear or see the same thing, and it is ok to correct the person by telling them you are not who they think you are. Use care not to become confrontational or argumentative, but do not pretend to be someone’s spouse, child, or anyone else.” The monitoring team appreciates the recognition and acknowledgment of the problematic video and the quick steps taken to rectify the situation during MOE training.

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 the timing of information, feedback, and reviews.

During this reporting period, the MHRAC training subcommittee spent time reviewing and discussing the APD’s curriculum for barricaded suicidal individuals.

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. Importantly, MHRAC continued to engage with members of the City’s Family and Community

Services (FCS) Department, as it continued to develop the Gateway Center at Gibson Health Hub, a new shelter for unsheltered people. Representatives of FCS regularly attended monthly MHRAC meetings throughout this reporting period.

During this reporting period, APD and MHRAC updated their citywide resource cards,¹⁰⁰ which list community resources. The resource cards are provided APD officers as a quick reference for them to connect people with whom they interact while on patrol to needed resources. CIU detectives, COAST members, and MCT members also regularly distribute the resource cards.

The monitoring team's review shows continued interaction and cooperation among local behavioral health systems, MHRAC, and the APD on these issues. Further, during this reporting period, MHRAC continued its monthly meetings via Zoom, which increases its accessibility and attendance.

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.¹⁰¹

Results

The MHRAC's Annual Report was not due during this reporting period. MHRAC continues to be a vital resource for the City; we look forward to its continued

¹⁰⁰ See “MHRAC/APD Resource Card,” dated 4/1/22, available at <https://www.cabq.gov/help/documents/abq-resource-card.pdf>.

¹⁰¹ 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>

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 attendance documentation, pre-tests and post-tests of training participants, and other documentation related to training activities.

Results

APD continues to train its cadets with quality behavioral health curricula. Further, APD continues to provide the 40-hour basic CIT training to all field officers, delivering the course during April 25-29, 2022. The April class included participants from eight neighboring law enforcement agencies, which often 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 includes 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. APD also includes community participants as “guest lecturers” during certain segments of the 40-hour course, enhancing 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 satisfactory 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 mental health and community services. APD also updates its behavioral health curricula appropriately, for example, by updating scenarios in which professional actors interact with training participants and consulting with the community experts who comprise MHRAC.

We continue to find the level of quality of behavioral health training developed and delivered by APD to be strong. The CIU instructors are well qualified and thoughtful in

delivering the material. We also note that the CIU received local recognition for its training efforts.¹⁰²

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.

Results

APD’s 20 hours of behavioral health training for telecommunicators included all topics noted in paragraph 121 and also included role-play scenarios drawn from recent 911 calls fielded by APD telecommunicator personnel. The course was 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:

¹⁰² March 22, 2022. “A look into APD’s crisis training during a mental health emergency,” Adriana Kraft, KRQE News. Accessible at <https://www.krqe.com/news/albuquerque-metro/a-look-into-apds-crisis-training-during-a-mental-health-emergency/>

“APD shall provide two hours of in-service training to all existing officers and tele-communicators on behavioral health-related topics biannually.”

Methodology

During this reporting period, the monitoring team reviewed the curriculum and all relevant training documents related to attendance for officers and telecommunicators.

Results

Eligible telecommunicators participated in 2-hour training on March 9, 2022, and April 6, 2022. APD officers participated in the maintenance of effort (MOE) training in 2021 and will be due for a 2-hour refresher training in 2023.

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 (ECIT officers) and the CIU for the reporting period.

Results

During this reporting period, APD data indicated that, on average, ECIT-trained officers respond to about 79 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 details by month are detailed below:

4.7.110 Percentage of ECIT Responses to Mental Health Calls for Service

Month	% ECIT responses to mental health calls for service
February	80%
March	79%
April	82%
May	78%
June	77%
July	76%
Average	79%

The CIU noted consistent improvement in response rates of ECIT officers responding to mental health-related calls for service, growing from 75 percent on average during the last reporting period to 79 percent during this reporting period.

The monitoring team remains concerned about the lack of progress on this paragraph and APD's efforts to determine and demonstrate a "sufficient number of crisis intervention certified responders" as this paragraph requires. While we note that CIU continues to move these requirements forward, we repeat our call for a meaningful review and data analysis relating to ECIT staffing. See our additional comments in paragraph 124. Finally, we note the inherent difficulty in determining "how much is enough" regarding the percentage of ECIT responses to mental health-related calls for service. This was not specifically spelled out in the CASA, and we see this as the domain of the Parties to clarify.

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

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 an average of 50 percent of Field Services officers were ECIT trained 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 47 and 52 percent. However, the numbers were slightly lower than the last reporting period (IMR-15). Table 4.7.111 below notes the percentages of ECIT officers 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. APD held CIU ECIT courses in January, March, May, and July during this reporting period.

The monitor 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-ECIT trained officers. We continue to see fatal and non-fatal outcomes in cases with mental health components that 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	
February 2022	47.8%
March 2022	48.3%
April 2022	50.4%
May 2022	50.0%
June 2022	51.1%
July 2022	52.6%

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 16th 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 through email communications. We also reviewed the sign-up sheet for recruited officers interested in attending an ECIT course.

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 the ECIT curriculum and training records for CIU and field services personnel, including certificates of completion for ECIT courses. We also reviewed communications between CIU and MHRAC regarding enhancements to the ECIT course.

Results

APD provided 8-hours of “re-certification” training to its certified CIT responders in the form of ECIT refresher training during this reporting period. The training was offered in September, October, and December 2021, and January 2022. The curriculum, which was refreshed to emphasize de-escalation strategies, collaboration with ACS, and the requirement for ECIT officers to take the lead on calls for service involving mental health issues, also continued to address crucial issues such as 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 and internal APD communications about moving forward with a meaningful staffing study and analysis.

Results

As we note in paragraphs 123 and 124 above, we are concerned about the APD’s progress 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. We acknowledge that APD’s ECIT-trained percentage of officers has averaged well above 40% for several reporting periods and appreciate the City’s effort to continue offering ECIT training regularly (see paragraph 124). While APD continues to research best practices in terms of crisis intervention staffing levels in other jurisdictions, we reiterate our recommendation for APD to conduct meaningful analysis on this issue by employing the expertise of a data scientist. As noted in paragraph 129, we see improvements on the horizon with APD’s increasing capacity for data analytics through the new personnel in its Accountability and Analytics Bureau.

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

Recommendation for Paragraph 127:

4.7.114a: APD should continue to 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-12.¹⁰³ 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, as required by APD policy SOP 2-19.¹⁰⁴ APD CIU personnel conducting these reviews fill out a standard review form (PD 1503) to capture such information and take appropriate action to refer potential policy violations to the proper accountability channels.

¹⁰³IMR-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.

¹⁰⁴ APD’s SOP 2-19 states in 2-19-6 Response, C.1. “When on scene, ECIT sworn personnel, MCT, or CIU detectives shall take the lead in interacting with individuals in a behavioral health crisis. If a supervisor has assumed responsibility for the scene, the supervisor shall seek input from ECIT, MCT or CIU on strategies for de-escalating, calming and resolving the crisis, when the situation allows such consultation safely. Supervisors are encouraged to become ECIT trained in order to better evaluate the ECIT sworn personnel they oversee or assist in situations where an ECIT officer is unavailable.” APD policies are available at <https://www.cabq.gov/police/standard-operating-procedures>.

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, 28 thorough reviews were conducted by APD during this reporting period, with the reviewers drawing upon CAD data, OBRD video, incident reports, and CIT reports. The reviewers noted only one instance in which the ECIT officer did not take the lead on scene. We note that in its recent revision to its *Behavioral Health Division Crisis Intervention Division Handbook (CID Handbook)*, the section entitled “Item 20: CIT Supervisor Call Reviews” details the process by which such reviews shall be conducted.

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 in order to identify deficiencies (if any) and address them promptly. 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.

We are encouraged by the steps taken by 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 not only included this process in its latest revision of the *CID Handbook* but also in SOP 1-37 *Crisis Intervention Division and Program*, which states, “Each supervisor, regardless of rank, who is assigned to the CIT shall be responsible for completing crisis intervention incident reviews each month.”¹⁰⁵

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

4.7.116 – 4.7.124 Assessing Compliance with Paragraphs 129-137

Monitoring team members reviewed documentation detailing 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 this 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. 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. However, we see improvements on the horizon with APD’s increasing capacity for data analytics through the new personnel in its Accountability and Analytics Bureau.

¹⁰⁵ APD SOP 1-37 is available at <https://www.cabq.gov/police/standard-operating-procedures>.

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 relevant data and recent data analysis to determine whether APD is collecting all the required elements of this paragraph, as well as documentation about staffing and analytics capabilities to determine whether APD can use the data for “management purposes,” as this paragraph requires.

Results

Our review of the documentation submitted by APD for compliance with this paragraph, including some analysis of responses to calls for service by supervisors, ECIT officers, or MCTs in 2021, indicates that APD continued to collect appropriate data on all required elements of this paragraph and continued its attempts to meaningfully analyze it. Their efforts to analyze these data have been hindered, however, by the implementation of APD’s new records management system (RMS), Mark43. Since its implementation, the CIU has struggled to extract the data from the system in useable format for meaningful analysis.

While the monitoring team remains concerned about the management and analyses of these data, we see improvements on the horizon with APD’s increasing capacity for data analytics through the new personnel in its Accountability and Analytics Bureau, including its new Director of Analytics. Moreover, we reviewed an email dated June 7, 2022, that indicates that a newly hired data analyst will begin leading CIU data analysis. Emails also indicate that the CIU Commander plans to thoughtfully prepare that analyst for their

new duties – including, for example, a ride-along with an MCT unit to build context for meaningful understanding and interpretation of CIT data.

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 and analytics in a timely fashion to meet the requirements of this paragraph, which include collecting data “for management purposes.”

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 APD’s work to “develop new response strategies for repeat calls for service.”

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.” Moreover, as detailed in paragraphs 115 and 126 above, the CIU continues to make appropriate and timely changes to its behavioral health curricula.

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 was updated during this reporting period (Effective 4/13/22, due for review 4/13/23). We also reviewed the training curriculum, which appropriately emphasizes disengagement, and the review processes corresponding to this policy and training.

Results

APD has struggled to keep this policy updated with the required frequency but completed an update during this reporting period. In addition, the monitoring team has more confidence that this policy will be updated regularly since it is now in lockstep with the suite of other crisis intervention-related policies regarding the review schedule.

After the policy had been through proper review channels during this reporting period – including MHRAC -- the CIU worked with the Academy to produce a training video. As in the last few reporting periods, the monitoring team again saw positive signs of collaboration across the department, especially between SOD and CIU, including collaborative work on the training video for the revised SOP 2-20, which was co-written by members of CIU and members of CNT. The training video was moved forward during this reporting period but was not completed. The video script and lesson plan were discussed at the March 2022 MHRAC Training Subcommittee meeting and was scheduled for recording in May 2022. The video recording plans to feature co-teaching from an officer from CIU and an officer from SOD. The monitoring team appreciates this effort to teach from a “united front” on this important issue.

Moreover, the SOD reported no tactical activations resulting from suicidal, barricaded individuals during this reporting period, keeping with SOP 2-20 and SOP 2-19.

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

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 detailed caseloads and activities. We also conducted interviews with COAST members and CIU detectives during our June 2022 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 housing options and navigating complex systems. Throughout this reporting period, three 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. We have concerns about APD’s staffing level, which has been consistently low over the last several monitoring periods

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. Moreover, in June 2022, the CIU clarified, streamlined, and provided guidance on its data collection practices for COAST activities. The data indicate that COAST has taken a more active role in assisting officers in the field during calls for service.

COAST and CIU continue to function as a referral and assistance mechanism for those in the community confronted with persistent mental health and housing 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 evolving in its approaches to 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 monthly program documentation for COAST members, CIU detectives, and CIU clinicians, which detailed caseloads and activities. We also conducted interviews with COAST members and CIU detectives during our June 2022 in-person site visit.

Results

The work completed during this reporting period by COAST and the CIU was compassionate and productive. As we noted in Paragraph 132, COAST members have taken a more active role in assisting field officers with calls for service – either via telephone consultation or in-person on scene. The monitoring team appreciates that COAST continues evolving to meet Albuquerque's needs.

However, we caution APD to be cognizant of staffing issues, as even the best of systems will eventually fail in the face of continual understaffing. Since COAST is now a team of only three members, we are concerned about the ability of this vital function to serve all six area commands.

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 relevant policies, CIT worksheets, and program documentation for COAST members and CIU detectives. In addition, we conducted in-person interviews with members of COAST and CIU during our June 2022 in-person site visit.

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. A review of consistent emails between CIU and FSB reveal that reminders about completing CIT worksheets were clear.

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 and relevant programmatic records related to current caseloads.

Results

As we note above in paragraphs 132 and 133, the number of COAST specialists held at a total of three to serve the entirety of the City of Albuquerque. The monitoring team, as it has in the past, 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. We view the forty-percent reduction in COAST staffing as significant.

The CIU, however, was fully staffed with detectives during this reporting period. APD advertised via Department Personnel Circulars (22-49) for a detective in CIU in April 2022 and transferred one detective into the unit in June 2022. The CIU maintained 12 detectives throughout the reporting period. The CIU also maintained its four supervisors (one commander, one lieutenant, and two sergeants). We note that the CIU maintained four officers assigned to its mobile crisis teams. The monitoring team appreciates the significance that a commander oversees this important unit, after many years without one.

As we have noted repeatedly, the City's reliance upon a seven-year-old staffing study is more likely than not 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 analysis of workload, 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 the MCTs. 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. As we noted in paragraphs 115 and 129, the monitoring team is encouraged by APD's progress in building its internal analytical capacity, and we look forward to a meaningful analysis of these issues soon.

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

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 was updated during this reporting period.

Results

COAST and CIU have continued to develop and maintain 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. For example, COAST and CIU participated in meaningful community-based activities during this reporting period, including the NAMI Walk,¹⁰⁶ a Coffee with a Cop event (“Coffee with the APD Crisis Intervention Division”) and a “CIT Meet & Greet.”

COAST and CIU members engaged 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, and MCT members also distribute resource cards regularly. The resource cards were updated during this reporting period to reflect changes to the availability of community resources. The most recent version is dated April 1, 2022, which is the version that City personnel distributed throughout this reporting period.

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).”**

¹⁰⁶ June 9, 2022. “NAMI walk for mental health coming to Balloon Fiesta Park.” Joy Wang, KOB. Accessible at: <https://www.kob.com/new-mexico/nami-walk-for-mental-health-coming-to-balloon-fiesta-park/>

Methodology

The monitoring team reviewed relevant data and recent data analysis to determine whether APD is collecting all the required elements of this paragraph, as well as documentation about staffing and analytics capabilities to determine whether APD can use the data to “demonstrate the impact of and inform modifications to crisis prevention services” as this paragraph requires.

Results

As we mentioned in paragraph 129 of this report, 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. Further, we are aware of difficulties extracting crisis intervention-related data from APD’s new RMS Mark43.

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 Accountability and Analytics Bureau moving forward. We await meaningful analysis of these data, along with the demonstration of decision-making based on that analysis and interpretation.

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 in usable format for analysis.

4.7.124c: Explore innovative methods for the oversight and development of information stipulated in Paragraph 137.

4.7.125 Assessing Compliance with Paragraph 139¹⁰⁷

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

¹⁰⁷ 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.

plainly, and shall be organized logically.”

Results

APD continues to be in compliance with this paragraph.

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 meet the requirements of this paragraph.

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

APD continues to conform to accepted practices 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 83 percent of the completed cases reviewed comply with the tenets of progressive discipline, as outlined in APD policy. This is up markedly from earlier reports, although still short of the required 95 percent for compliance.

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

4.7.132a: APD should redouble efforts to standardize discipline among like-patterned violations, although we understand that some disparity is necessary to allow the agency to consider past violations while imposing appropriate discipline.

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 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 with the terms of the CASA. During this reporting period, personnel from the 125th Cadet Class and CNM 6 signed off, acknowledging that all materials were received and reviewed.

Records reviewed by the monitoring team show that personnel were briefed and presented the terms of the Agreement, 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

After requesting APD’s training calendars for this reporting period, the monitoring team received and reviewed documentation of required training.

APD completed training its personnel on 2019 Use of Force Tier 1 and documented its results for this reporting period:

- Current Number of sworn APD 917
- Leave 6
- Active Sworn who can complete training 911
- Completed training in 2021 69
- Completed on PDMS 867

- Number that received hard copies @ Academy 44
- Total number completed as 12/28/2021 911
- Percentage active completed 100 %

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 %

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 that can complete training 321
- Completed training in 2021 66
- Total number completed as 12/30/2021 316
- Percentage active completed 99.7%

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 98.4%

APD completed training its personnel on 2021 UoF 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 99.6%

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	99%

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 stepped up its training during this reporting period with numerous changes to the schedule well into the next reporting period. The monitoring team will continue to monitor new policies and changes to the policies that are pending approval, to ensure that the annual requirements of this paragraph are maintained and that all training required by this agreement is delivered and followed.

The Academy supplied the monitoring team with documentation of the training conducted during this reporting period (details demonstrated in paragraph 150).

- Interoffice Memorandum July 18th, 2022 (Tier 4 UoF RBT Training)
- Interoffice Memorandum July 19th, 2022 (Update 2019 UoF Tier 1 Training)
- Interoffice Memorandum July 18th, 2022 (Tier 4 UoF MARC Training)
- Interoffice Memorandum July 28th, 2022 (Update UoF Tier 3 Training)
- Interoffice Memorandum July 28th, 2022 (Update UoF Tier 2 Training)
- Interoffice Memorandum November 21th, 2021 (2022 – 2023 Training Plan)

The training scheduled to continue into the next reporting period is documented on an EXCEL sheet with delivery dates throughout 2023.

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 #28 (CBW) was delivered during this reporting period (February 1 through July 28, 2022)

COB documentation was supplied to the monitor to review lateral hires for the 28th Lateral Class to ensure they were 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 that all training required by the CASA was received before entry to duty. As documented by APD training records, all members of the 28th Lateral Class were briefed on and presented with the terms of the CASA Agreement (as stated in Paragraph 149). Members of the class completed the review/signature for this reporting period, acknowledging the terms of the CASA.

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 June 2022 site visit produced ample evidence that APD is meeting the requirements of the paragraph. During this reporting period, the monitoring team reviewed the following documentation for this report:

- Taser Recertification Training;
- Special Operations Division Bomb Squad Training;
- Special Operations Division Tactical Section K9 and Team Tactics Training);
- Special Operations Division K9 Team Training Maintenance;
- Special Operations Division Rook Team Training;
- Special Operations Division Duty Rifle and Handgun Training; and
- Supervisor Training (2022 IAPS Supervisory Training, Sergeant First-Line Supervisor Training, PEMS Supervisor Training.

APD continues to maintain 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 this reporting period, the APD Academy conducted department Phase I Maintenance of Effort (MOE) training (Interoffice Memorandum dated May 6, 2022) and was in the process of completing Phase II Maintenance of Effort (MOE) training (Interoffice Memorandum dated July 28th, 2022) as required by the CASA.

- MOE Legal updates Part 1, case law updates on Civil rights (New Mexico case law on warrantless arrests, articulable facts for reasonable suspicion and probable cause, off-duty legal concerns, battery on a peace officer, articulable facts and circumstances related to Terry stops, investigative detention, search and seizure and Miranda);
- MOE Legal updates Part II 4th Amendment Protection (Lawful expectation of the warrant arrest, conditions of consent, defining exigent circumstances, plain view and open field doctrines, defining curtilage, procedures of search incident to arrest, protective sweeps, Terry frisks and stops, electronic devices protection,

differences between New Mexico and federal automobile searches, and non-investigative searches).

Compliance with the Phase I training is at 99.9%. The monitoring team will review phase II training upon completion of training that extends into the next reporting period. Based on past performance by the Advanced Training Unit, APD remains in compliance with the requirements of this paragraph.

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 (February 1, 2022, through July 31, 2022) in the form of policy, program plans, and results.

As in previous site visits, the monitoring team met with the APD Academy personnel who are responsible for maintaining the program development for the June 2022 implementation Supervisor Training, PEMS Supervisor Training. Revisions to SOP 1-46 Field Training and Evaluation Program (FTEP) had been submitted in the previous reporting period and became effective during this reporting period on May 31st, 2022.

In IMR-15, the monitoring team stated that forty-seven (47) cadets from the 124th Academy Class began the OJT program on October 30th, 2021. The FTEP requires that Academy graduates receive sixteen weeks of field training and that recruits not be released from the program without completing the sixteen-week requirement and continue meeting the requirements of the CASA. This group completed the program during the IMR16 reporting period. Documentation to support the requirement of the CASA was submitted to and reviewed by the monitoring team. These data included:

Field Service Bureau Special Orders

- Field Services Bureau Special Order FSB SO 21-76 (Amended) Phase I OJT Assignment;
- Field Services Bureau Special Order FSB SO 21-81 Phase I OJT for 124 Cadet Class;
- Field Services Bureau Special Order FSB SO 21-83 Phase II 124 Cadet Class;
- Field Services Bureau Special Order FSB SO 21-84 Phase II 124 Cadet Class;
- Field Services Bureau Special Order FSB SO 22-01 (Amended) Phase I 124

- Cadet Class;
- Field Services Bureau Special Order FSB SO 22-03 Phase II 124 Cadet Class;
- Field Services Bureau Special Order FSB SO 22-04 Phase III 124 Cadet Class;
- Field Services Bureau Special Order FSB SO 22-08 Phase III 124 Cadet Class;
- Field Services Bureau Special Order FSB SO 22-10 Phase III 124 Cadet Class;
- Field Services Bureau Special Order FSB SO 22-11 Phase III 124 Cadet Class;
- Field Services Bureau Special Order FSB SO 22-13 Phase III 124 Cadet Class;
- Field Services Bureau Special Order FSB SO 22-15 Final Phase 124 Cadet Class;
- Field Services Bureau Special Order FSB SO 22-19 Final Phase 124 Class (one recruit);
- Field Services Bureau Special Order FSB SO 22-31 Final Phase 124 Cadet Class (one recruit);
- Field Services Bureau Special Order FSB SO 22-09, 12, 17, 21, 23, 24, 28, 29, 34 CNM #6 Cadet Class; and
- Field Services Bureau Special Order FSB SO 22-16,20, 27 27th Lateral Class.

The Special Orders mentioned above maintain APD's 100% compliance with the program's requirement of sixteen weeks of field training, three phases of training, and no early release from the program.

The monitoring team reviewed the vetting process for the applications and backgrounds of the six (6) new candidates (FTO application, written test, basic final test, EWP's, oral board notes and results, board recordings, and certificates). Four (4) candidates were successful in the process and were placed in active status of the program. The monitoring team's review of the documentation indicated that all requirements of the CASA were met. APD submits background checks and applications (on an on-going basis) to the monitoring team for review to ensure compliance.

The FTEP conducted two (2) FTO Basic Courses in March 2022 (nine officers, one sergeant, and one FTEP specialist attended) and May 2022 (nine officers). The monitoring team was supplied with the requisite documentation for the attendees:

- Schedule;
- Class roster
- Participant's folder (pre-test, final test, practical DOR, and certificate);
- Critiques; 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.

This information is contained in the above-mentioned Special Orders.

APD supplied the monitor with documentation to support that field training officers and area sergeant coordinators maintained detailed records of the evaluations conducted throughout the OJT program. These data included:

- 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).

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 continues to be positive;
- Field Training Area Sergeants completed by Sergeant Trainee;
 - Review of the critiques continues to be positive;
- Field Training Officer Critique completed by recruit officer; and
 - Review of the critiques continues to be positive;
- APD OJT critique completed by recruit
 - Review of the critiques was positive

The monitoring team noted an increase in the response rate for completed critiques. A review of the scores reflects that the feedback was minimal and very generalized, leaving little to evaluate. The FTO program continues to do an excellent job following up on any negative scores to ensure no pattern of negative training is occurring. That being said, the Academy addresses minor negative feedback to ensure consistent field training with the content learned in the Academy.

Current FTEP staffing levels include:

- 4 FTA Lieutenants;

- Nine (9) Field Training Staff Supervisors;
- Sixty-one (69) Active FTO's;
- Three Administrative personnel assigned to the Academy Division, FTEP Section, and one lieutenant.

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.

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 same to IAPS. It also requires failure to comply to be grounds for discipline.

During this reporting period and the June 2022 site visit, members of the monitoring team reviewed a stratified random sampling of 20 investigations for which IAPS was responsible –13 completed by IAPS [IMR-16-27], [IMR-16-28], [IMR-16-29], [IMR-16-30], [IMR-16-31], [IMR-16-32], [IMR-16-33], [IMR-16-34], [IMR-16-35], [IMR-16-36], [IMR-16-37], [IMR-16-38], and [IMR-16-39], and seven referred to and completed by the Area Commands [IMR-16-40], [IMR-16-41], [IMR-16-42], [IMR-16-43], [IMR-16-44], [IMR-16-45], and [IMR-16-46]. The monitoring team also reviewed a stratified random sampling of eleven investigations completed by CPOA [IMR-16-47], [IMR-16-48], [IMR-16-49], [IMR-16-50], [IMR-16-51], [IMR-16-52], [IMR-16-53], [IMR-16-54], [IMR-16-55], [IMR-16-56], and [IMR-16-57]. The monitoring team 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 take place within 24 hours of when the member has the 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 in which reporting must occur and the reporting method.

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 13 cases investigated by IAPS noted above, we found the referral time to IAPS to be satisfactory in all cases. In the seven matters referred to area command for investigations, the monitoring team determined that six cases had a satisfactory referral time. One case file, [IMR-16-45], indicated that an officer self-reported the theft of agency property from their personal vehicle, immediately upon discovering it, to their immediate supervisor. The supervisor reported the policy violation several weeks later, contrary to the requirement of this paragraph. A recommendation in IMR-14 to require information in Blue Team to indicate when the violation was learned was implemented in November/December of 2021. However, the investigator in this case failed to do so, and the administrative review of this case failed to identify the reporting violation. The monitoring team re-emphasizes that administrative review processes should include verifying and addressing discrepancies.

Therefore, we find definitive proof of timely referrals in 95 percent of the 20 cases reviewed implicating this paragraph. This is an improvement from IMR-15 and results in a finding of operational compliance with this paragraph.

Results

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

Monitor's note:

IAPS amended Blue Team processes in November/December 2021, requiring the reporting member to document when they learned of the potential violation. IAPS should ensure this 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 officers to 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 16th site visit, monitoring team members continued to review the APD and CPOA websites for information regarding procedures to make civilian complaints. During this site visit, the monitoring team visited APD and City public properties to determine whether informational brochures and Complaint and Commendation forms were available. In addition to APD and CPOA

properties, the monitoring team visited three Community Centers and two libraries and consistently found the informational brochures and Civilian Complaint and Commendation forms available for easy public access.

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. 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, and individual patrol vehicles. The information on the hard copy forms is in Spanish and English. The information does not discourage complaints and makes it 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, whether they are made internally or externally, and 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 this reporting period and the June 2022 site visit, members of the monitoring team utilized the same methodology as in prior periods, meeting with the IAPS Commander and members of his staff and the CPOA Executive Director and members of her staff. We reviewed complaint log-in and classification records, selected (through a

stratified random sample) and reviewed 13 IAPS, seven Area Commands, and 11 CPOA investigations completed during the reporting period. The monitoring team also reviewed the APD and CPOA websites and CPOA Board minutes relative to the approval of investigations. It should be noted that APD hired a full-time Intake Manager on June 20, 2021. The Intake Manager was trained and is responsible for the intake of all complaints against members of APD.

The monitoring team finds full compliance regarding paragraphs 169 through 182. The findings related to Paragraphs 169 through 182 are discussed below.

In this monitoring period, through the review of the stratified random sampling of 20 IAPS cases, we found the following results. Only one case, [IMR-16-45], assigned to an area command for review, failed to address the delay in reporting an allegation of misconduct. One of the 20 cases did not comply with the requirements of paragraph 178, which is a 95% compliance rate, and therefore, APD is in operational compliance with paragraph 178.

In November-December of 2021, IAPS changed the Blue Team entry module, which mandates the reporting member to document when the potential violation was identified. While this change brought IAPS into operational compliance, we still recommended that the administrative review of completed investigations include a verification of the dates when a potential policy violation is identified and reported to ensure it is reported within 24 hours.

During this monitoring period and presumably due to the newly created Intake Manager position, none of the 20 IAPS cases and 11 CPOA we reviewed 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 on the level of sanctions. This represents a major improvement in APD/CPOA case management and processing.

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. Regarding acceptance of complaints, in our review of the stratified random sample of investigations and IAPS and CPOA processes, we found no instances of a refusal 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 or discouraging a complaint is grounds for discipline. Although timely complaints are encouraged, untimely complaints are accepted, as well as anonymous and third-party complaints. The monitoring team has also reviewed 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. Two of the 20 IAPS cases reviewed for this period were referrals from the courts, which were properly accepted and investigated.

APD has developed, and continues to use, a centralized numbering and tracking system that assigns unique identification numbers to all received complaints. Complaints are received and classified according to allegations, not potential outcomes. APD currently utilizes the IAPro records management system to manage its internal affairs complaints and information. During this monitoring period, APD initiated a pilot program in which Benchmark Analytics is evaluated and assessed as a process which can assist in analyzing their data.

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 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-16 did not reveal any cases based on a third-party complaint. Based on these findings, 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 the 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 the IMR-15 period, APD released an updated SOP AO 3-41, Complaints Involving Department Policy or Personnel. This SOP 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.

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: **In Compliance**

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 through 194: Investigation of Complaints

Paragraphs 183 through 194 of the CASA pertain to requirements for thoroughness, timeliness, reliability of findings, and overall quality regarding investigation of misconduct complaints. These paragraphs require that all relevant evidence be considered and that those investigations are fair, impartial, and reach correct and reliable findings. They also require time limits for the completion of investigations, designate permissible findings with the corresponding standard of proof, and assess 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.

In regard to paragraphs 183 through 194, during the 16th reporting period, members of the monitoring team reviewed a stratified random sampling of 20 investigations for which IAPS was responsible (13 completed by IAPS and seven completed by the Area Commands). In addition, a stratified sampling of 11 investigations completed by CPOA was reviewed. The monitoring team also met with the Chief of Police and the City Attorney, the acting CPOA Executive Director, CPOA Legal Counsel, and the IAPS Commander. The monitoring team also attended meetings with CPOA Board members and reviewed CPOA Board meetings, agenda minutes, and findings on the CPOA website.

First, we take this opportunity to repeat and supplement what we pointed out in IMR-13 regarding IAPS processing procedure improvements. The commander of IAPS now requires supervisory reviews of investigations at 10, 20, and 40-day marks 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 the 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, and 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.¹⁰⁸ 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 commands for investigations and is available if called upon for guidance and quality control for those minor investigations assigned to the area command. Once investigations are assigned to IAPS investigators, the quality of those investigations is the area of supervisory focus of a separate Investigations Manager. As we pointed out in the discussion of paragraphs 169-182, the monitoring team continues to provide extensive technical assistance in the Complaint Intake function. There is also an improved communication process among the parties and monitoring team regarding intake and discipline, as discussed in this report's Discipline and Transparency section (paragraphs 201-202).

The findings related to Paragraphs 183 through 194 address the following requirements of the CASA.

The mediation program has been nonfunctional for two consecutive IMR periods. The mediation process is thoroughly discussed in the narrative section of Paragraphs 271-292.

APD personnel are required by policy and practice to cooperate with the internal affairs system. This cooperation is required by regulation and practice. In the past IMRs, we found instances in our random sample of investigations where 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 the task of 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 has been focused on the investigations of minor misconduct allegations conducted by the area commands and division commands. Nonetheless, we put more focus on cases that were forwarded to IAPS as a result of Use of Force reviews from cases that were out of compliance of the Use of Force policies and/or collateral violation issues from those cases. During the IMR-15 period, APD sent area commanders and investigators from IAPS and IAFD who conduct internal affairs investigations to the Institute of Police Training and Management (IPTM) for basic internal affairs investigation training. Unfortunately, not all personnel tasked with conducting internal affairs investigations, specifically many supervisors, were sent to this training. However, during this monitoring period, APD established an agency-specific Internal Affairs investigation course for supervisors, which was administered to all agency members responsible for conducting and reviewing internal affairs investigations. The monitoring team worked with APD, providing extensive technical assistance in creating this training, and, during the June 2022 on-site visit, attended some of the

¹⁰⁸ This is the civilian equivalent of a deputy commander.

classroom presentations. We anticipate that this training will provide all the participating parties with the tools necessary to reach full operational compliance, which will be assessed again during the IMR-17 monitoring period.

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. In the IMR-15 reporting period, the IAPS Commander advised that he spoke with City Legal about the recommendation that a protocol be put in place to regulate the intake, assignment, receipt, and review of these investigations. In May 2021, City Legal authored a letter to the Chief and Superintendent of Reform outlining their position on how they hire an outside investigator. The letter does not establish any type of formal protocol for the receipt or review of those investigations. To date, no formal protocol has been established, but the IAPS Commander indicated that both of those investigation files were received by the IAPS Commander and were complete.

Again this reporting period, our stratified random sample revealed investigations that we deem to be deficient. The deficiencies noted are based on the review of completed files of these cases, as provided by APD. These are discussed below.

First, our review of the 20 cases investigated by the area commands (seven cases) and IAPS (13 cases) revealed no administratively closed cases. The IAPS Commander advised that he has discontinued administratively closing cases once an "I" number has been assigned. The review of the 11 cases that CPOA was responsible for revealed that two cases were administratively closed, and we found none that were closed improperly. These cases are cited in paragraphs 271-292 of this report.

Area Command and IAPS Case Reviews Found to be Deficient

[IMR-16-42] This Area Command investigation was initiated as a result of a Performance Metrics Unit (PMU) audit in which they identified that an officer created two recordings on their OBRD on March 18, 2022, that were not uploaded until April 2, 2022. This case was assigned to an Area Command for investigation. The Chain of Command Recommendation form indicates the officer worked on March 18, 2022, and was notified during that shift that they were suspended without pay for an administrative violation related to a separate matter. That officer completed his shift on March 18, 2022, but failed to dock his OBRD or upload the recordings until April 2, 2022, the next shift he worked. According to the Recommendation Form, the officer admitted that he knew he should have uploaded the recordings before he departed that date. However, due to the suspension notice, it slipped his mind. The investigation sustained the policy violation, and the subject officer received a written reprimand. The CASA requires all allegations of policy violations to be properly investigated and documented, including the taking of statements. In this case, while there was no reason to doubt the investigator spoke with the officer, the documentation was severely lacking. There was no indication in the case file that the officer was advised of his right to a *Weingarten* Representation during his interview. There was no indication that a formal interview was conducted; therefore, there was no codification of exactly what the officer admitted. There was no documentation in the file as to what the PMU found during their audit, no source

documents to indicate the officer's schedule or anything else to document what evidence was considered in reaching their conclusion.

In November 2021 and June 2022, the monitoring team met with the Area Commander or a representative from each of the operational Area Commands during on-site visits. During those meetings we advised the Area Commander or a representative from each of the operational Area Commands that the CASA requires a formal internal investigation to be conducted, including all supporting documentation that was considered in making their conclusion. We further advised these personnel the investigative steps must be documented, the complainant should be interviewed (unless they produce adequate documentation of their complaint), and all fact witness interviews need to be recorded to ensure the accuracy of any statements made. It was explained that all administrative procedures must be adhered to, including proper notifications. The investigator in this case conducted this investigation in May 2022 but was trained in conducting Internal Affairs investigations in July 2022. This area command review, while it appears to have reached the right conclusion, is not operationally compliant with the requirements of the CASA. The documentation in this case also failed to establish the date when the violation was identified by the PMU, thus not enough information was provided to establish if the reporting requirements were met. We consider this investigation to be critically deficient.

[IMR-16-44] This Area Command investigation was initiated after APD received an email notification (dated May 25, 2022) that an officer failed to appear for a scheduled court appearance on May 24, 2022. The Blue Team entry indicates that it was created on May 30, 2022. The investigation indicates that the email notification from the court was sent to the APD Court Services Unit Supervisor, dated May 25, 2022. According to the area command review, the officer stated they forgot about the court date. While this is a factual violation, it is important for APD to gather the pertinent supporting documentation/evidence of the violation. In this case, the investigator did obtain the email reporting the alleged violation. However, there was no mention in the documentation of the notification to the officer about the court date. A copy of the officer's notification would be pertinent evidence that the officer was aware and properly notified. According to the report, the officer acknowledged that he forgot, and no indication was found to believe he contested being notified. However, since the officer's interview was informal and no documentation was made concerning the interview's contents, it is impossible to determine that fact. Also, there is no indication that the officer was subjected to the formal Internal Affairs process, specifically that he was notified of the policy violation, provided administrative advisements of his right to a Weingarten Representative, or that his statement was recorded to document what was said accurately. While there is no reason to doubt the investigator's assertion, a proper formal recorded interview should have been conducted. While the conclusion of this investigation appears to be appropriate, with a Sustained finding, the investigation did not properly document that it considered all pertinent evidence or that all proper investigative procedures were followed.

A comprehensive review of the 11 CPOA cases reviewed by the monitoring team in paragraphs 271-292 revealed the facts listed below.

Regarding the seven investigations completed by the area commands and the 13 investigations by IAPS in our stratified random sample, we noted two cases in which unreliable findings are reported, based on the documentation contained within the case files. Deficiencies in the imposition of discipline are discussed more fully in this report's Discipline and Transparency section (paragraphs 201-202).

Regarding those investigations conducted by the Area Commands, we have seen a vast improvement from prior IMR periods. The two investigations that failed to meet operational compliance in paragraphs 184 and 190 were both cases assigned to area commands for review. In both cases, the investigators conducted the investigation, specifically the interview of the subject officer, prior to attending the Internal Affairs Training for Supervisors. In both cases, the investigator reported that they spoke with the subject officers, and they both admitted to the violations. As stated, there's no reason to doubt the investigators' assertions; however, should a legal challenge occur about a discrepancy of what was said or the administrative process, in our opinion, the agency would be hard pressed to be able to support their position with admissible evidence. The other five investigations completed by area commands were formally addressed, with recorded interviews, considered supporting documentation that were properly documented.

Considering the review of the stratified random sample of the 20 investigations conducted by the area commands and IAPS, deficiencies were noted in the thoroughness and quality of two investigations. This yields a 90 percent operational compliance rate. Although this is a vast improvement since IMR-15, where there was only 55 percent operational compliance, this remains problematic and falls short of the 95 percent compliance rate. The increase in operational compliance is attributed to the investigations completed by IAPS personnel and the area commands. At this point, policies and training regarding investigative processes for internal "complaints" exist. The only two investigations that were not found to be operationally compliant were conducted by investigators who had not been trained at the time. Reportedly, all agency members responsible for conducting or supervising internal affairs investigations have now been trained, except for any newly hired or transferred members. This training occurred after the close of this reporting period. The IAPS Commander will be responsible for ensuring any newly assigned members receive the requisite training as soon as possible. It is incumbent on the IAPS command to ensure all investigations are conducted within the requirements of their policies and the CASA.

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.

In IMR-13 through IMR-15, 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)." APD has heeded this

recommendation and has reaped the rewards with the two exceptions noted above. The area command reviews have been standardized and are operating much more efficiently. Moreover, the IA investigations conducted by the area commands will continue to receive detailed scrutiny from the monitoring team.

During this period, the review of the 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 continued to be a positive sign that more consideration is being made during the classification of complaints.

We strongly suggest that APD conduct a thorough quality review of all cases we found to be deficient or in which we identified shortcomings to determine how these shortfalls made it through supervisory and command review at IAPS. This trend has diminished greatly but continues to be problematic and requires APD's commitment to command oversight and control.

CPOA findings and advisements are discussed in greater detail in paragraphs 271-292. We note that, of the eleven CPOA cases reviewed, we found three to be deficient in that the investigative record was not thorough enough either because full investigative steps were not taken or the analysis of evidence was lacking.

During this period, IAPS administratively closed 10 cases during the intake process after determining that there was no violation of policy, determined by a preliminary review.

In the cases reviewed by the monitoring team during this reporting period, we found no cases that had preliminary indications of potential criminal conduct. In IMR-15, two cases implicated possible criminal violations, and were properly processed by APD. Based on our review of the findings in a sample of cases for the 16th 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 performances 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 20 investigations for which IAPS was responsible, all cases were completed within mandated time frames. Regarding the requirements relating to the timeliness of CPOA investigations, contained in the paragraphs 271-292 section of this report, CPOA had two of the eleven cases out of timelines for investigations. This equates to 93.6% compliance rate for Paragraph 191. Thus we find CPOA not in compliance with the requirements of Paragraph 191.

Although no instances of IAPS investigations are outside the required time limit for completeness, CPOA continues to struggle with this area. The timeliness of CPOA investigations 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: 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 investigative steps were not warranted. These should be subject to managerial oversight regarding appropriateness.

4.7.169b: 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.

4.7.169c: All interviews should be recorded to ensure proper administrative procedures were adhered to and to codify exactly what was stated.

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 ensure all investigators at the Area Commands, who will conduct investigations of minor misconduct receive appropriate training relating to internal affairs 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 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

As noted above, all of the IAPS investigations were completed within timelines. However, two of the 11 CPOA cases were completed outside of the timelines established by Paragraph 191.

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

Recommendation for Paragraph 191:

4.7.177a: CPOA supervisors should ensure that investigations are completed in a timely manner, and that cases with exigent circumstances are closely monitored for timeliness and accuracy.

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 grounds 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 stratified random sample of IA and CPOA cases completed during the 16th 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 has multiple policy provisions 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 conducted a stratified random sampling 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 with 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, 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 charts and training records, and assessed the timelines for processing complaints. The monitoring team also reviewed information regarding potential misconduct in investigations that were randomly selected for the purpose of assessing the quality of the 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 nine investigators (six detectives and three civilian

positions) plus one vacant civilian position. This is an increase from the IMR-15 monitoring period. During this period, the IAPS Commander was also assigned the responsibilities of the Acting Deputy Chief of Reform, and the lieutenant was assigned some of the responsibilities of the IAPS Commander. These temporary assignments were made after the resignation of the Superintendent of Reform at the end of 2021. These temporary assignments are anticipated to remain until such a time as the Superintendent of Reform position is filled.¹⁰⁹ The civilian Intake Manager oversees the complaint intake function. Despite the fact that IAPS, as discussed more fully in the Investigations of Complaints section (paragraphs 183-194) of this IMR, has made strides in improving its processes, it bears repeating that additional staff may still be required to complete thorough investigations in a timely manner, as required by the time constraints of the CASA and Collective Bargaining Agreement. The CASA and the CBA utilize the same timeline (90 days or 120 days with an 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 impacts APD's ability to impose discipline on sustained charges (compliance with CASA paragraphs 201 and 202). 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.

Thus, IAPS and CPOA must be staffed sufficiently to meet their timeline responsibilities so that CASA and CBA timelines 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 CASA¹¹⁰. We note that the City was fully aware of the requirements of the CASA when it negotiated the new CBA in 2021. In the monitor's opinion, the responsibility for any conflicts between the requirements of the CASA and the current CBA rest solely with the City.

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, ½ of 1% of the APD annual operational budget. This funding was adequate in the past; however, the ½ of 1% requirement has since been removed. At this time, it appears that the CPOA budget is adequate; we are glad to observe and report that all CPOA investigative positions have been filled and that the new Executive Director was hired shortly after the end of the IMR 16 period. In addition to bringing new leadership to the office, this hire has enabled the former Interim Executive Director to return to her position of Lead Investigator, in which she can now exert increased direction, review, and quality control of the office intake function and investigative work product. We do note, however, that CPOA still has two funded but unfilled positions - a Community Engagement Specialist and a Policy Analyst. Even though these positions are not investigative, they are

¹⁰⁹ We are advised that, after the close of this reporting period, the City has hired a new Superintendent of Police Reform.

¹¹⁰ After the close of the reporting period, the City approved the budget for additional CPOA investigators.

nonetheless important positions for CPOA to carry out its total mission. CPOA and the City are notified that the monitoring team expects these positions to be filled in the IMR-17 period.

As we have pointed out earlier, 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. The 24-hour preliminary training and the 8-hour in-service training addressed 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 titled Internal Affairs Investigations for Supervisors was delivered by the APD Academy for those personnel tasked with conducting internal affairs investigations. The training was provided to all Area Commanders and IAPS investigators, and other supervisors. During the prior IMR, several members of the APD were trained by the Institute of Police Management regarding basic internal affairs processes. Due to the fact that all interviews of employees in administrative investigations are required/compelled, both courses meet the requirement of paragraph 199. The investigation of an officer-involved shooting, which requires a separate criminal investigation and administrative investigation, was also covered in those two training functions. According to the training materials from both courses, the legal issues requiring the criminal investigation to be bifurcated from the administrative investigation were covered and, therefore, met the requirements of paragraph 199. By training all personnel responsible for investigating and supervising internal affairs investigations, APD is operationally compliant in paragraph 199.

There has been a practice of assigning IA investigations to members of an Area Command, at the rank of sergeant or higher, to conduct investigations related to minor misconduct by an APD member of the same area command. This practice is currently in effect. The monitor recommended during IMR-14 that APD assign all CASA-related violations to IAPS. During this period, IAPS was assigned responsibility for most CASA-related violations, 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 violation is, and has been, 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. Members of the monitoring team noted the lack of acceptable documentation of Area Command findings and a tendency to not formally interview the member to provide them an opportunity to take responsibility or offer a reason.

The monitor discusses the scarcity of information and the poor quality of investigations conducted by the area commands more fully in this report's Investigation of Complaints section (paragraphs 183-194). We recommend that IAPS ensure that the investigations conducted by the Area Commands contain adequate information to establish compliance with all applicable CASA requirements. The monitoring team found that two of the cases we sampled for this monitor's report were problematic. These investigations conducted

by area commands during the 16th reporting period lacked thoroughness and did not address all related misconduct allegations.

We further discuss the CPOA and CPOAB training requirements in the Civilian Police Oversight Agency section (paragraphs 271-292) of this report.

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**

Monitor’s Note:

CPOA should continue to staff its investigative responsibilities adequately and use effective measures of workload, including the time needed to complete the average CPOA investigation, and the time needed to assess and perform quality control processes.

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: **In Compliance**

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 the required elements for the disciplinary matrix. Read together, these paragraphs require progressive discipline that is fair, consistent, commensurate with the violation committed, and 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, Acting Superintendent of Reform and other disciplinary authorities, the City Attorney, the CPOA Acting Executive Director, CPOA board members, and the IAPS Commander. We also 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, such as 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. These improvements have persisted in the IMR 16 period and need not be detailed again in this report. The use of, and facility with, the revised disciplinary policy (SOP 3-46) and revised complaint intake policy (SOP 3-41) have also taken root in the APD disciplinary system. The role of the sworn position that the monitoring team described in IMR-14 as a “potential watershed event,” the Professional Integrity Commander (PIC), is now well-ensconced in the APD disciplinary system.

At the end of the IMR-16 period, the APD disciplinary system was functioning with four centralized disciplinary authorities, a vast improvement in terms of consistency of process and discipline when compared to the past practice of utilizing Deputy Chiefs, Area Commanders, and Special Unit Commanders as individual disciplinary authorities. In addition to the acting Superintendent, acting Deputy Superintendent, and the PIC, a second acting Deputy Superintendent position was created during the IMR-16 period.

In matters with sustained allegation(s) where the proposed discipline is more than 40 hours, the PIC is the first line of review of the investigation and recommended discipline. The acting Deputy Superintendent completes the second review. The acting Superintendent (former Deputy Superintendent of Police Reform) presides over PDHs. Appeals of those matters are heard by the appropriate board, either the Personnel Board or the Labor Management Relations Board.

In major disciplinary actions in which the proposed discipline is 40 hours or less, the first line of review is the PIC, the second line of review is the acting Deputy Superintendent, and the PDH is heard by the ranking acting Deputy Superintendent. The acting Superintendent hears any appeals of such matters.

In minor disciplinary matters, PDHs are not heard, and the PIC imposes discipline. If there is a disagreement between the recommendation of the area commander and the PIC on the level of discipline, the acting Deputy Superintendent designates the appropriate discipline.

The above-noted improvements in the process have yielded noticeable improvements in compliance with the requirements of progressive discipline, albeit still somewhat short of full compliance as our review continues to note issues with elements related to the imposition of discipline.

The monitoring team reviewed a stratified random sample of eighteen (18) cases completed during the review period. In that review, we identified seven cases in which the proposed discipline was major, [IMR-16-58], [IMR-16-59], [IMR-16-27], [IMR-16-30], [IMR-16-60], [IMR-16-61], and [IMR-16-62], and 11 cases which can be described as minor disciplinary cases, [IMR-16-63], [IMR-16-64], [IMR-16-65], [IMR-16-66], [IMR-16-67], [IMR-16-68], [IMR-16-69], [IMR-16-70], [IMR-16-71], [IMR-16-72], and [IMR-16-73].

Of the seven cases classified as major disciplinary cases, we have identified one, [IMR-16-59], in which the process was deficient and thus may have impacted discipline. Of the eleven cases classified as minor, we have identified two [IMR-16-68 and IMR-16-

71] that did not comply with progressive discipline requirements as outlined in the CASA. This constitutes an 83 percent compliance rate, representing a steady and significant improvement but still outside the 95 percent compliance requirement.

[IMR-16-59] involved sustained allegations against two officers for failure to submit use of force reports containing a “detailed account of the incident from the officer’s perspective.” The violations are Class 7 violations, and both officers had no prior disciplinary events that counted for purposes of progressive discipline, and verbal reprimands within the range of Class 7 first offenses were imposed. Normally this discipline would not be deficient *vis-a-vis* the findings and sanction levels; however, in this case, the investigation established that both officers collaborated after the incident, with one officer copying the Use of Force narrative from the other. During an appeal hearing, the officer who allowed his report to be copied claimed the copying was done without his knowledge, a direct contradiction of evidence and findings in the investigation. Sufficient questioning on the contradiction regarding knowledge of copying, and why the officers did not remain separated, was not adequately pursued in the hearing. These were issues that were potential aggravating factors or potential new allegations, and a pointed line of questioning in this area would have brought resolution to these issues. Best practices in disciplinary processes would dictate that in PDHs or appeal hearings, when direct contradictions arise between testimony and the investigative evidence and findings, particularly contradictions that could impact credibility and attendant discipline, the issue will be pursued. If a representative of IAPS is present, it is expected that such a contradiction will be noted for the disciplinary authority. This did not occur in the events at hand.

[IMR-16-68] involved sustained allegations against four officers for failure to meet roles and responsibilities due to allowing non-police students to pose for photos with police weapons. The allegation is a Class 6 violation (performance), and NDCAs (Non-Discipline Corrective Action) were imposed on all four officers. Two officers had no prior offenses that count for purposes of progressive discipline, but two of the officers had prior performance violations within the last year. The prior offenses were not noted in the imposition of discipline. Either discipline should have been imposed commensurate with the range for a Class 6 second offense, or a cogent explanation of why a departure from that range was justified should have been provided regarding those two officers. In effect, the same discipline was imposed on all four officers, although two officers had relevant prior disciplinary events.

[IMR-16-71] involved a sustained allegation for failure to adhere to orders and regulations due to missing a training deadline, a Class 6 violation. An NDCA was imposed, and mitigating factors were cited for acceptance of responsibility, no prior offenses, and assignment to a specialized unit. There were two prior misconduct violations and one prior performance violation within time limits. Depending on the nature of the current violation, either the prior performance violation or prior misconduct violations should have been assessed for purposes of progressive discipline. It appears that they were not considered due to an erroneous interpretation of SOP 3-46-3K. The operative definition of prior-related offenses, “a sustained violation of policy from the same group of prior-related offenses as set forth by Appendix II and consistent with the

time limitations set forth in this SOP . . .”, does not require the prior offense to be the exact same offense for it to count for purposes of progressive discipline.

The above cases and resulting non-compliance with paragraph 201 leave APD in non-compliance with these paragraphs as they relate to operational requirements of the CASA.

In this reporting period, our review of the random sample of cases revealed no cases completed during the IMR-16 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 a 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, a backlog of use of force cases (in excess of 600), which depending on case-specific issues, could raise challenges of cases being “time-barred for discipline.”

It bears repeating that compliance with the CBA related to 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.

Two issues pertaining to the next reporting period should be mentioned at this juncture. Shortly after the end of the IMR-16 period, the City announced the appointment of a new Superintendent of Reform. The second issue worth noting is the final discipline after appeal when the appellate authority is external to the APD; that is, in cases of major discipline where the proposed discipline is more than 40 hours, the immediate appellate authority is either the Personnel Board or the Labor Management Relations Board, depending on the nature of the appeal. The position that the City takes in defending the decisions of its disciplinary authorities in these appeals, particularly settlements of appeals¹¹¹ before they reach the Personnel Board or the Labor Management Relations Board, is an area the monitoring team will review in future monitor’s report.

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.”

¹¹¹ e.g., a 100-hour suspension reduced to 24 hours via settlement on appeal

Results

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

Recommendations for Paragraph 201:

4.7.187a: Ensure that all disciplinary decisions fall within 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: The explanation of time limitations on the chart of sanctions, 3-46-4B2, and the explanation of prior-related offenses, 3-46-3K, must be understood and followed in DAP calculations and by the Disciplinary Authorities.

4.7.187g: 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.

4.7.187h: To accurately calculate whether prior offenses count for purposes of progressive discipline, the current sustained allegations should be labeled appropriately as either "performance" or "misconduct" violations, and prior offenses should likewise be labeled.

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: **In Compliance**

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, some supervisory investigations of use of force are not thorough and compete. 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 develop quantitative goals and objectives related to "adequate staffing" of APD and its individual units, clearly stating whether or not they agree with externally generated findings, and should work to ensure that "recommended" staffing levels are achieved.

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."

Results

APD continues to remain in compliance with Paragraph 204.

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

During this reporting period (February 1, 2022, through July 31, 2022), the monitoring team requested;

- COB documentation for first-line supervision review of officers as described in Section IV of the CASA;
- Daily worksheet schedules with CAD entries indicating that the sergeant for that shift was logged in;
- Copy of monthly area command team to determine proper ratio (8-1); and
- Commanders' and lieutenants' correspondence, reports, analyses, and COB supervisory reports, and other relevant documents to ensure quantitative and qualitative reviews of supervision.

APD submitted to the monitoring team documentation to assess compliance with paragraphs 205-208. These paragraphs address supervision requirements for First-Line Supervisors, the required span of control and levels of supervision, and the close supervision by the lieutenants and commanders. As has been the case in previous monitoring periods, the monitoring team conducted thorough reviews of randomly selected UoF cases, then commented extensively on its findings in paragraphs 41-49 and 86-88 of this report.

The reports the monitoring team reviewed consist of, but are not limited to, the following:

- Monthly detailed Scorecards containing the teams or units being monitored, the topic that each team or unit is measured on, 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.

APD has made significant progress during this reporting period to increase overall compliance pertaining to use of force provisions in Section IV of this agreement. APD's actions include:

- The Analytics Division began reporting information to FRB in reference to SOP 2-27 (Supervisory Oversight) violations. This allows executive leadership to be proactive and identify deficiencies for quick attention;
- A training plan was developed to ensure commanders and lieutenants identify deficient UoF investigations. This course will train supervisors on how to use quarterly Performance Evaluations to evaluate an employee's performance, and is scheduled to be delivered during IMR-17 reporting period;

- As recommended in IMR-15, ReformStat is being utilized as a driving force to improve supervisory processes, and meetings are held on a weekly basis;
- The Performance Review Unit (PRU) was engaged with these issues. During this reporting period, a PRU Pilot Program reviewed sixty-one Level 1 use of force reviews and found an average compliance rate of ninety-six percent (95.9%).

We have continued to note the exceptional work done by PRU in building, executing and publishing assessments of APD work product related to CASA compliance. The effectiveness of those processes is reflected in our most recent report. We note continual improvement in compliance regarding monthly activity reports, monthly check-off lists, line inspections, video inspections, and firearms.

As in previous reporting periods, the below-listed material was received by the monitoring team:

- Random Line-up reports for area commands (Verification for 8:1 Ratio Compliance maintained);
- Monthly Inspection Reports;
- Random CAD entry reports for Area Commands so that the monitoring team can verify identifiable first-line supervisor or if acting as first-line supervisor an "A" is used for logging on CAD to signify to all officers clearly who the supervisor is for the shift;
- Detailed Supervision Scorecards Status reports are developed by PRU, including topics and processes assessed, sample size used, explanation of scorecard findings, and team scorecards); and
- Random Sergeant CAD entry reports for each Area Command.

The quality of assessments of use of force by APD supervisors required by Section IV of the CASA has been addressed with more urgency this reporting period. APD has put processes in place to capture supervisory shortfalls experienced in previous reporting periods. The documentation supplied also illustrates that supervisory deficiencies are being identified in the reviewing chain of command.

The progress made by APD in these areas is a positive sign that the department is moving in the right direction. The additional training scheduled for the next reporting period promises to help APD reduce deficiencies with the supervisory requirements of these paragraphs. The monitoring team will continue reviewing audits and actions to reduce repetitive oversight errors during future reporting periods (see paragraphs 41-59 and 86-88 of this report which are centered on the use, reporting, supervision, and investigations of UoF 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**

Recommendations for Paragraphs 205 and 206:

44.7.194a: Assess and implement the current plan for addressing the requirements of Paragraphs 205 and 206.

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: **In Compliance**

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 APD must meet for compliance with the CASA. “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:

- February 2022 First Line Supervisor Training (Special Order SO 22-14);
- Schedule / Rosters for the 100-hour First Line Supervisor Training Course;
- Student Evaluation for 100-hour course;
- Critiques for 100-hour course;
- Test Results; and
- Certificates.

The 100-hour course (documented in Interoffice Memorandum October 18, 2021) was utilized for this reporting period and administered as per the aforementioned.

The requirements for paragraph 210 are interwoven throughout the 100-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 Use of Force
- Understanding supervisory tools (Early Intervention Systems and OBRD systems);
- Investigating officer misconduct;
- Managing 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 APD has addressed these portions of the requirements in the supervisory course delivered during this reporting period.

During this reporting period, APD delivered the 2022 IAPS Supervisor Training to:

- Sworn Supervisors / Acting Supervisors (321);
- Supervisors on authorized Leave (10);
- Total Number Sworn Supervisors / Acting as of July 11, 2022 (301);
- Still pending (10);
- Total Percentage attended (96.78%).

During this reporting period APD delivered the 2022 Axon Capture and Incident Management for Supervisors to the following personnel:

- Sworn Supervisors / Acting Supervisors (321);
- Authorized Leave (12);
- Total Number Sworn Supervisors / Acting as of 7/28/2022 (79);
- Scheduled for next reporting period (191);
- Still pending scheduling (27);
- Total Percentage attended (25.56%).

This training will be evaluated during the next reporting period.

APD delivered during this reporting period the 2022 Perceptions and Leadership (DISC) Supervisory Training:

- Sworn Supervisors / Acting Supervisors (321);
- Authorized Leave (22);
- Active Sworn Supervisors / Acting (299);
- Total Percentage completed (98.99%).

APD is scheduled to deliver Mandatory Supervisor Training for Investigations personnel during September and November 2022. This training will fulfill the requirements of paragraph 211 of the CASA. Upon completing this training, the thirty-two-hour requirement for paragraph 211 will be met and evaluated during the IMR-17 reporting period.

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

Operational compliance in this reporting period cannot be attained until all training is delivered. At that time, the monitor will determine if compliance is attained upon reviewing the documentation supplied.

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

Recommendation for Paragraph 211:

4.7.197a: APD should continue its current practices of training design, development, and delivery, and should carefully identify and monitor personnel needing training and those who have received training.

4.7.197b: Complete training as scheduled.

4.7.198-4.7.205 Assessing Compliance with Paragraphs 212-219 EIS/EIRS/PMEDS

During the IMR-15 monitoring period, the monitor and DOJ approved the latest version of the Performance Evaluation and Management System (PEMS) policy (3-33). In addition, with the understanding that the supervisor curriculum would be updated to reflect the approved policy, APD's proposed supervisory training was also approved, and the training for the APD supervisors was completed. During the area command site visit conducted for this period, the monitoring team found that all the sergeants and lieutenants had already attended the training. 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 the final work product indicated that the supervisors were well versed in the materials presented. Supervisors documented and evaluated the mock workplace failures presented to them and had reasonable and appropriate suggestions for the remediation of the issues.

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 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.

During the monitoring period for IMR-16, Special Order SO 22-23 announced the rollout of PEMS. Implementation was to be phased in, commencing with Field Services Bureau personnel. PEMS assessment notifications would be sent to supervisors beginning in February for commanders and above, in March for lieutenants, and in April for sergeants. Supervisors were instructed that assessment notifications would be distributed via Blue Team and reminded to check their Blue Team inboxes daily. Further instructions for the required timelines for completing a performance assessment were provided. During the June site visits to eight different area commands or investigative units, no sergeant or lieutenant had received a PEMS alert/notification. APD did, however, provide documentation of more than 60 assessment notification files from the current monitoring period, which consisted of hundreds of documents. Unfortunately, there is no summary or performance analysis (lessons learned, after action processes, etc.) learned from the PEMS. Hopefully, APD will take the next step in gathering information on whether their system will provide the necessary functionality for both CASA requirements and as a supervisory tool for APD.

While approved policy guidance exists, it is highly probable that policies will need to change when new systems are developed. APD continues to work with Benchmark Analytics to develop the automated system further. Weekly Zoom meetings continue with the various development teams from Benchmark and APD, with the DOJ and monitoring team members 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. Monitoring team reminders of CASA requirements related to data retention and threshold changes have been presented. APD plans to begin the pilot program for Benchmark to begin early in the IMR-17 period.

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 PEMS/Benchmark 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 Paragraphs 212 - 219:

4.7.198-205a: Continue to periodically evaluate the effectiveness of audit protocols and the ability of APD to identify and correct actions not in compliance with the requirements of this paragraph.

4.7.206 – 4.7.217 Assessing Compliance with Paragraphs 220-231

During the monitoring period for IMR-16, APD's PMU has continued actively auditing area commands for OBRD-related activities and has extended the auditing to various Investigations Units. The findings so far have yielded enough information to conclude that significant strides have been made concerning APD's execution and training related to the CASA's OBRD requirements. APD's internal audit processes again showed an overall compliance rate of 95 percent or higher in all six area commands for OBRD requirements. The monitoring team visited several area commands during the IMR-16 on-site visit, and met with personnel from several Investigative units, including Special Investigations, Organized Crime, Investigative Support Unit, Bomb Squad, Canine, and the Aviation Unit, and spoke to lieutenants and sergeants from these units. Members of the monitoring team also attended supervisory training regarding conducting investigations related to violations of OBRD policy and SOP requirements.

Prior reporting of the monitoring team identified that if multiple officers arrive on the scene and all have a reason to record an event mandatorily, the PMU audit scores the incident as compliant based on only the primary officer on whether any OBRD recording 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. As technology advances, the capability to provide "blue tothing" or "geo-fencing" is nearly complete. This process activates all OBRD's within a pre-determined distance when one is activated. APD is working on the policy promulgation before a delayed Axon rollout of the capability.

The 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 that internal audit. This will be an important test of APD's ability to self-manage.

During the last monitoring period, an individual commander was assigned to review all discipline cases and make a final disciplinary recommendation. This process differs from prior practices; now, a single appointee makes the final decision regarding imposing discipline or other corrective actions. In the past, an officer's commander would make disciplinary determinations. This change is designed to create a more consistent and fair disciplinary processes, removed from supervisory biases. In addition, training for all supervisors was conducted during this reporting period to assist supervisors outside of Internal Affairs in conducting a misconduct investigation when it is returned to their unit. Again, this action was necessary to create a consistent and fair disciplinary process throughout APD.

The monitoring team, in prior reports, expressed concern for accountability and APD's response to the OBRD policy requirements violations. During this reporting period,

clarifications were made to the OBRD policy, and definitions were added. Additionally, changes were made to the Disciplinary Matrix, separating policy violations into a performance or misconduct category. Within these categories, a performance violation would not add to the progressive discipline of the other. For these reasons, along with the just completed supervisory training, it would be difficult to make a comparison of these IMR findings to prior report findings.

During this period, 109 records were created in Blue Team. Cases were created by PMU, the officer's direct supervisor, IAFD, and "other" supervisors. Within the 109 files initiated, 129 potential violations of SOP 2-8 had been investigated. Within those records, 70 had been closed.

The findings of the closed cases are described below:

Sustained: 53
Not Sustained: 1
Unfounded: 6
Exonerated: 10

Sustained Findings/Actions/Discipline:

Administratively Closed-Non-Disciplinary Corrective Action: 17
Verbal Reprimand: 16
Written Reprimand: 18
Suspension: 2

Five officers were found to have two or more sustained OBRD violations during this reporting period. IA did not provide data noting officers who may have had violations outside of this monitoring period that would have added to this number or if the five mentioned had prior sustained violations. These five officers received verbal or written reprimands, with three receiving Non-Disciplinary Corrective Action (not specified). 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 several area commands and many investigative units during the June 2022 site visit. All supervisors could 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 selected their videos from Evidence.com rather than the required CAD system for review. One supervisor discovered two violations of the OBRD policy (failure to upload) and referred the officers to Internal Affairs. No issues other than a failed cord 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 disparity mentioned above regarding the failure to capture data from all officers involved rather than simply the reporting officer.

The monitoring team views well-trained and engaged supervisors as the lynchpin to properly function this entire process. While more appropriate action has begun, significant improvement is still required in order to meet CASA requirements. Internal Affairs has worked to standardize the review of cases returned to the area command for investigation, including training for the first-line supervisors concerning 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

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

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

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

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: **In Compliance**

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

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: **In Compliance**

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 remains in operational compliance with these CASA paragraph requirements. APD Recruitment staff continue to provide an impressive array of strategies and concepts for recruiting police officers at a time in history when 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 of at least 43 states. Members of the monitoring team “follow” the recruiting unit on Facebook and Instagram and have observed impressive innovative work.

The latest successful innovation of the Recruiting Unit is the expanded use of a quick response code (QR Code) through the QR Tiger website, which provided APD with information about the date, time, and location and which device type used to access the code. Hindered by VPN networks, APD created unique codes for specific campaigns. Additionally, APD is using the QR codes to request individuals to complete a survey to aid in identifying interest in applying or referring another individual who may have an interest. Creating a social media footprint for recruiting has been enhanced by adding Twitter and YouTube accounts, including “live” events with the ability for live questions and answers. Zoom meetings were conducted with current cadets and applicants in and out of state. APD has continued to produce videos, including the Academy campus video, which provided an Academy tour. They have also provided videos showing physical training demonstrations, cadet interviews, and specialty assignments. 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 and answers. The recent addition of a virtual reality (VR) experience to help foster interest has been met with positive reviews.

During this reporting period, the recruiting unit continued to attend events related to transitioning from military to civilian life with the Air Force, Army, Marines, and National Guard. Recruiting banners and posters have been installed at the local mall. 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.” Car shows and truck shows have been attended as these events draw large numbers, with APD building a “lowrider” show car that has received positive recognition. Major sporting events, college job fairs, high school events, community events for the NAACP and Native Americans, and many other venues were attended during the IMR-16 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 year's numbers. APD has demonstrated diversity in the on-camera personnel 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. 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. This platform has provided direct contact with thousands of applicants who are interested in law enforcement. Numerous applicants have traveled from out of state to test with APD. In addition to the many social media platforms that have increased interest, referrals from current APD personnel are also effective, and new policies are providing bonuses and uniform ribbon recognition. 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 have 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 June 2022 site visit, the monitoring team again conducted a random audit of the CASA requirements for cadet class 125. During all past audits, the monitoring team found all the requirements to be covered. The same was true for this period. For cadet class 125, six records (a 21 percent random sample) were examined, and all required materials were contained in their records.

With the easing of Covid restrictions, the Recruiting Unit again began to routinely attend the area command CPC meetings to strengthen relationships with stakeholders to ensure their involvement with the Albuquerque Police Department's selection process and to seek feedback on ideas and potential events. They continue recruiting at colleges with satellite academies, including some out-of-state 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 CASA requirements for screening recruits during the 16th reporting period are included in Tables 232a and 232b.

Table 232a: Screening Points for Recruits Class # 125

Class #125	New recruits and lateral hires to undergo a psychological examination to determine their fitness	New recruits and lateral hires, to undergo a medical examination to determine their fitness	New recruits and lateral hires, to undergo a polygraph examination to determine their fitness	Reliable and valid pre-service Drug testing for new officers and random testing for existing officers.	Detect the use of banned or illegal substances, including steroids.
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
Recruit 5	1	1	1	1	1
Recruit 6	1	1	1	1	1
Total	6	6	6	6	6
Number in Compliance Total all Incidents	6	6	6	6	6
% in Compliance Total by Category	100%	100%	100%	100%	100%

Table 232b: Screening Points for Recruits Class # 125

Class #125	Assessing a candidate's credit history	Assessing a candidate's criminal history	Assessing a candidate's employment history	Assessing a candidate's use of controlled substances	Assessing a candidate's ability to work with diverse communities
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
Recruit 5	1	1	1	1	1
Recruit 6	1	1	1	1	1
Total	6	6	6	6	6
Number in Compliance Total all Incidents	6	6	6	6	6
% in Compliance Total by Category	100%	100%	100%	100%	100%

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 June 2022 site visit for IMR-16, the monitoring team reviewed the records of 31 percent of the promotions to sergeant (4 of 13) and 43 percent of the promotions to lieutenant (3 of 7) 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. Another promotion occurred after the site visit, in which two officers were promoted to sergeant, and three sergeants were promoted to lieutenant. The monitoring team will review the records of these promotions during the next site visit (if required). APD has been in operational compliance with these requirements for over 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 June 2022 site visit, monitoring team members visited all Area Commands and other duty locations, including Investigations Divisions. Supervisors successfully demonstrated 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 reportedly 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 with their performance evaluation requirements for Use of Force Investigations. APD submitted the curriculum to the monitor (which was approved) and began training supervisors in these requirements. 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 performance evaluations are due. The system will automatically send out notifications five, ten, 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. Checkpoint 2 of 2022 showed a success rate of 96.7 percent of completed evaluations (741 of 766) required. Five sergeants did not complete the final criteria for officers assigned to them and were referred to Internal Affairs for investigation.

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 Paragraphs 247 through 253 of the CASA pertaining 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 February 1, 2022, through July 31, 2022. As in previous monitoring periods, APD supplied the monitoring team with documentation during the June 2022 site visit. The remainder of the data for the period from June 1, 2022, through July 31, 2022, was received by the monitoring team in August 2022. The Director and the BSS staff responded promptly with a complete package outlining all program processes.

As per 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.

The BSS process is ongoing and reviewed at regularly scheduled meetings to maintain the most current best practices in the industry. As in previous reporting periods, APD has met the requirements of this section and often exceeds the requirements, a testament to the dedication of the personnel in BSS.

BSS continued to explore and work on improving the program. These efforts include, but are not limited to, the following:

- Self-Care Interactive Online Network (SCION), lectures, and presentations continue, and the program hired a coordinator during this reporting period;
- The coordinator hired during this reporting period will not only assist with the SCION program but will help with promoting the online forum and the Podcast;
- BSS plans to have all pre-employment evaluations go through the University of New Mexico, initiating the program in the next reporting period;
- A new location with more space, due to increased demand for services, was put on hold, but BSS continues to push for this to happen soon;
- A hiring search for a newly created position of wellness coordinator that would report to the BSS director continues;
- The program continues to expand the number of personnel due to demand, and BSS is in the final stages of adding another therapy provider; and
- The new SOP for Wellness program was published during this reporting period giving more clarity on mandated treatment.

The BSS program delivered supervisory training to APD personnel and provided the monitoring team with course-of-business supporting documentation. The training will allow management and supervisory personnel to describe the protocols utilized by BSS including but not limited to;

- Stigma, Confidentiality, and SOP;
- Evaluation after a critical incident;
- Common stressors for law enforcement employees and warning signs;
- Serious Behavioral Health warning signs;
- Treatment and mandated treatment;
- Referrals;
- Fitness for duty;
- Officer-involved shootings; and
- Contacting BSS.

Peer Support supplied to the monitoring team COB documentation for this reporting period. The documentation included:

- Training and Outreach;
- Field Service Bureau Briefings (Emergency Communication Center and Emergency Response Team Training);
- Peer Support Activity Data (date/times, method of contact, initiating party, referrals, personnel from peer support group);
- Peer Support survey reports that document findings; and
- Educating APD personnel on available resources, including referrals for professional assistance.

Peer Support continues working closely with the APD Academy to deliver training to APD personnel. As in previous reporting periods, Peer Support continues to deliver briefings to personnel during all shifts to ensure an opportunity for everyone to have access to the material. The material viewed by the monitoring team, as it relates to this program, is highly confidential. 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 June 2022 site visit at all APD's Area Commands to ensure BSS maintained updated Excel spreadsheets of available health professionals and flyers with the most current information on the program. BSS also supplied the monitoring team with documentation in the data received electronically for this reporting period, demonstrating the availability of staff on call and pamphlets with the most current information about the programs and means to reach personnel from 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.

As a result of the monitoring team's inspection, data supports the conclusion that APD continues to meet all requirements with CASA as related to these paragraphs.

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. This paragraph is 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 made significant strides in efforts to further integrate community policing and problem-solving principles into daily operations. APD initiated plans to administer a new culture survey that will capture information about officers’ knowledge and attitudes regarding community policing. Such surveys are considered a primary measure of culture change in policing agencies. APD launched a Youth Working Group comprised of local youth-serving agencies and non-profits to leverage resources to expand and reach significantly higher numbers of high-risk youth through various youth programming. APD also continued improving its community engagement outreach through its Ambassador Program, which assigns officers to conduct ongoing outreach with affinity groups and marginalized groups, and stepped-up involvement in support of Community Policing Councils. Towards the end of the reporting period, APD launched a novel podcast featuring information on “cold cases” and providing the Police Chief an opportunity to engage to the communities served by APD.

In the previous and current reporting periods, APD efforts to integrate community policing and practices into operations have included the following:

- Sworn personnel training in community policing practices and principles;
- Recruitment efforts to have the workforce more closely mirror the populations served;
- Personnel evaluations that include a community policing component;
- Deployment of Problem Response Teams officers in all area commands, augmenting community policing activities;
- The assignment of crime prevention specialists to each area command;
- Enhancements for School Resource Officer training;
- Implementing outreach strategies for each area command;
- Establishing a Youth Working Group to leverage resources and partnerships for expanding services to at-risk youth; and
- Plans to administer a climate survey to assess culture change and knowledge and support for community policing principles and practices, and develop and implement any required remedial strategies

APD reported other outreach activities that included the following.

- Camp Fearless for at-risk youth involves a partnership with DEA, Fire and Rescue department, schools, Zoo, and Aquarium and involves an estimated 240 youth
- Junior Police Academy;
- Wrestling club and Boxing club;
- Community events such as the “lowrider,” horseback riding, and K9 demonstrations; and
- ECHO, which involved nearly 100 virtual presentations and discussions with various community stakeholders covering community safety issues.

APD has established Youth Working Group, comprised of 22 members from city agencies and community-based non-profits, which APD believes will play a critical role in expanding community partnerships and leveraging resources to provide additional prevention programs and other services to the thousands of at-risk youths in Albuquerque.

Results

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

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

APD completed its staffing analysis in the previous reporting period. Study findings were used to inform the Bid process implemented in February. In prior reporting periods, APD has struggled with 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 goals related to problem-solving policing instead of PACT's enforcement-based processes.

Recommendations from the staffing analysis included:

- Formalizing a hybrid approach that 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 the unobligated time that can be used in community policing activities; and
- APD adopted a community policing standard performance objective of 33 percent for the key hours of 7 a.m. to 8 p.m.

APD reports that implementing these recommendations has posed some challenges. The first recommendation formalizing a hybrid approach requiring field officers to engage in the level of community policing, was implemented. However, APD continues to analyze and seek ways to structure better the use of patrol officers' unobligated time and finds ways to incorporate how that time is spent into community policing performance standards. APD also indicates performance objectives will be self-assessed to inform future deployment practices and measures.

For this reporting period, staffing levels remained relatively stable, with some changes resulting from promotions and changes in service demands. At the end of this reporting period, PRT staffing deployments by area command were as follows:

- Foothills- 3
- Northeast - 5
- Northwest- 3
- Southeast- 10
- Southwest - 2
- Valley- 11 (two 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 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 by APD, including ongoing and current issues and lists of community leaders. APD completed its latest Bid process at the end of the last reporting period and utilized a Beat Familiarity Questionnaire that included command area-specific information about community stakeholders and resources. APD previously reported completing the digitized process. However, APD identified issues and attempted corrective actions in the 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 previously 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 officers’ assigned areas is updated quarterly, and the process includes the Beat Familiarity Questionnaire. Beginning in January 2022, APD reports that the FSB questionnaire was expanded to include command-specific information sheets that outline important information for each Area Command.

The monitoring team continues to be 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

APD POP/COP (Problem Oriented Policing and Community Oriented Policing) refresher curriculum was completed and approved during this reporting period. Most APD sworn personnel completed the refresher training during this reporting period. COB documentation showed that 71% of active sworn officers had completed the training as of July 28, 2022. During the previous reporting periods, APD made revisions in content and the delivery of COP 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 new and evolving departmental policies and orders into training, and better aligns with COP training requirements. The monitoring team subsequently approved the COP training, and APD initiated its first delivery in 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 of perceiving their relationship with the community members they serve and 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 may be assessed in the planned culture survey that can inform adjustments in training approaches.

APD continued to deliver its 16 hours of Basic Training to the most recent Cadet class during this reporting period. In addition to the Basic Training, cadets also received a full day of training on Cultural Diversity /Community Engagement, including presentations by community members representing various cultural/ethnic backgrounds. Also previously added to cadet training was a requirement to perform community outreach. In 2022, the Field Training and Evaluation Program again 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 was encouraged that COP/POP training was included in the 2022 annual refresher training calendar, with delivery for many sworn personnel during June-August 2022. The COP/POP refresher training was approved, with a substantial number of classes delivered during this reporting period. The monitoring team also expects APD to continue to adjust this training based on findings from Culture surveys and feedback from field supervisors. The monitoring team also expects changes in training content as its community policing and engagement processes continue to expand and evolve. The monitoring team encourages 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 aligned with the COP training and COP goals and objectives.

4.7.243b: Complete 2022 COP/POP in service refresher training and ensure future training schedules that provide annualized refresher training.

4.7.243c: 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 continued to seek improvements in the consistency in using the Community Event Tracker (CET). APD conducted audits of the data and cross-comparisons with CAD data to identify gaps and errors in usage. APD developed additional guidance for sworn personnel to address deficiencies in CET entries. Although the data is incomplete, APD reported 1991 events, with 1551 involving scheduled community events from January 2022 to August 2022. Training on using the tracker was approved and published on Power DMS in January 2022 and required both specific sworn and specific non-sworn department personnel to create an entry into the system for tracking. The CET should become 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 more outreach activities by officers and problem-solving with community-based service providers.

The monitoring team again acknowledges the Law Enforcement Assisted Diversion (LEAD) program that provides options other than arrests for non-violent misdemeanor crimes. For the second quarter of 2022, APD reported the number of residents suspected of non-violent, misdemeanor crimes referred for drug treatment and/or behavioral health services was 17. The monitoring team encourages APD to capture and report additional data to determine the 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 of effectively networking with a range of community service organizations and advocacy groups.

The monitoring team recognizes the progress in implementing the web-based application Community Event Tracker (CET) and acknowledges the steps APD has taken to ensure compliance with usage requirements. The monitoring team urges APD to continue with its CET development, capturing more contacts, outcomes, and referral information. APD must also 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

APD made significant progress in implementing their previously developed outreach and public information program during this reporting period. Five of the six Area Commands developed and posted monthly newsletters and made some progress in regularly posting upcoming events on their monthly calendar. The monitoring team reviewed the area command web pages for this reporting period and still noted some information gaps, most notably limited messaging about upcoming events. The APD ambassador program activity, CPC meetings, block parties, and other community events are not routinely listed under the Upcoming Events headings.

In the prior reporting period, each of the six area commands completed a Community Outreach and Public Information Strategy that outlines goals/ objectives and key activities. APD updated biographical sketches for area commanders in the prior and current reporting period and posted monthly, and annualized crime data for the specific area commands. It is also important that area commanders continue to provide the necessary oversight and supervision to implement the Outreach and Public Information Strategy, including updating their respective websites.

In previous reporting periods, 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 developing and completing their plans. During the prior reporting period, five of the six area commands could present and receive feedback on their plans from their CPCs. The CPCs have also expressed a strong interest in having greater input in updating these strategies in the next planning cycle. APD should consult with the CPCs at the onset of the strategy development process for the next planning cycle.

One of the goals of area command-based public information plans and strategies is to specifically address community outreach, messaging, outreach to marginalized segments of the population, and use of social media to enhance community engagement. In this reporting period, APD reported helping Area Commands further utilize their social media tools with enhanced coordination. The monitoring team expects the maturation of area command public information and outreach plans to include even more targeted social media activity and improvements in maintaining and updating community events calendars. The monitoring team expects APD to continue consulting

with the area command CPCs when updating these public information and outreach plans in the next planning cycle.

Results

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

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

During this reporting period, APD made presentations in five of the six Area Commands, informing the public about CASA requirements and updating progress in meeting those requirements. APD used the CPCs as a platform to share information about implementing CASA requirements. The remaining area command was briefed shortly after the end of the reporting period.

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. APD personnel are regular participants in CPC meetings addressing community concerns, sharing crime prevention information, and discussing crime reduction approaches. The monitoring team encourages APD to continue using CPCs as conduits for updates on policy change, new training, policing strategies and tactics, and addressing residents’ community safety concerns.

Results

Primary: **In Compliance**

Secondary: **In Compliance**

Operational: **In Compliance**

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 in this report, APD began using, across the department, the Community Event Tracker (CET) at the end of the last reporting period, 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 as visual indicators of areas needing more community outreach. APD audited CET compliance with usage requirements and uncovered deficiencies in consistent usage by sworn personnel. APD is addressing these

deficiencies with additional guidance and ongoing monitoring support to identify officers not regularly reporting engagement activity for specific remedial measures.

The monitoring team has asked for CET-generated data once APD had improved compliance levels with officers regularly uploading engagement activity to the CEMs system. We look forward to reviewing the reports generated from this web-based system to confirm further officer participation in community activities and the outcomes of the officer and citizen encounters. Initial reporting is encouraging, with officers attending 939 events last year. 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 result from changing the web-based “app” tracking system.

We suggest that APD finalize the development of the standardized reporting formats, audit officer compliance with reporting, and continue to improve 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 is encouraged that APD is quickly implementing the necessary supervisory controls and providing 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, as well as city-wide crime trends. The monthly data are posted roughly two to three months after reporting. The data sets are a complete report of 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 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

The Albuquerque Community Policing Councils (CPCs), have evolved into the national model and "best practice" for area command-based policing advisory bodies. One could

expect CPCs to be one of the lasting legacies of this CASA, with their permanence now established through ongoing practice and a city ordinance. 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 eight years ago, remarkable consistency and adaptability have been displayed. In the previous reporting periods, the monitoring team noted that CPCs often 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.

The transfer of administrative oversight from APD to CPOA has been finalized, with staff in place to support CPC operations. This transfer continues to yield benefits for CPC operations, including ongoing virtual meeting support, program guidance, and outreach. During this reporting period, CPCs adapting to changing circumstances began using a hybrid approach in their monthly meetings, providing opportunities for in-person and virtual attendance. APD has demonstrated more support through its regular participation in meetings, and its increased responsiveness to recommendations generated by CPCs

The number of voting members continued to increase and is now at 48 city-wide, representing the highest number ever for CPCs. Attendance at CPC meetings continues to vary, but the in-person/ virtual meeting format may facilitate broader participation. The monitoring team reviewed agendas and attended CPC meetings. The topics covered in this reporting period were far-reaching. They provided opportunities for community members to be better informed about many aspects of APD operations and other services relating to community safety. Examples of topics covered topics include:

- IAPD's Investigative Services Division;
- Use of Force Policy;
- APD Proactive Response Teams;
- FBI collaboration with APD to address violent crime;
- Crime Prevention Tips;
- Safe Open Spaces;
- Crime Stoppers; and
- Crimes Against Children.

The monitoring team understands that CPCs are committed to continuing to provide a meaningful outlet for community members to share their views and concerns about APD's policing practices and make meaningful recommendations for consideration by APD. In turn, APD needs to be responsive to those recommendations and engage in meaningful discussions with CPC members regarding APD policy and practices. APD has also pledged to be more responsive to the recommendations made by CPCs that may have touch points with other City agencies.

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 continued participating in CPC meetings during this reporting period, making presentations and answering questions from community members. The monitoring team looks forward to the continued development of CPCs and working even more closely with APD providing more feedback on APD policy and policing practices.

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 this reporting period, CPC membership changed significantly, with several CPC chairs stepping down and the recruitment of new members and elections of new chairs. At the end of the reporting period, CPOA reported 48 CPC members city-wide, nearly an average of 8 members per CPC council. The new members provide a more diversified membership. Still, there remain areas for improvement in having CPC membership better reflect the population of the residents they represent, especially in recruiting more young people as CPC members. In an earlier reporting period, the monitoring team reported CPC membership criteria and selection process 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. The CPCs requested 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): 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 DOJ, and the monitor;
- Ride-alongs: 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.

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 probability of criminal history 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.

Interest in CPC memberships continues strong as the councils are becoming firmly embedded, providing monthly opportunities throughout the City to give voice to community members regarding their community safety concerns and solutions. The meeting topics and discussions are more relevant and enriching, and APD involvement is on the rise. Local crime concerns and solutions are often regularly addressed at these meetings

The monitoring team remains encouraged that CPC expansion and diversification will continue under the administration of CPOA. The monitoring team suggests stepped-up efforts by CPOA in their support of CPCs in membership recruitment efforts and broadening participation in meetings. CPOA should also encourage and support the CPC Council of Chairs collaboratively and strengthen their leadership role.

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 this reporting period, CPOA support for CPCs included a budgeted CPC liaison and liaison assistant positions. During the IMR-12 reporting period, the City finalized the transfer of the CPC program from APD to CPOA. In this reporting period, CPOA staff provided technical support, helping the CPCs from each area command host over 30 virtual and hybrid/ in-person meetings, monthly Council of Chairs CPC leadership meetings, and refresher training sessions for CPC members. CPOA staff also hosted a celebratory and networking reception for CPC members and their APD partners.

The monitoring team reviewed CPC minutes and agendas posted during this reporting period and found most up-to-date. In this reporting period, five of six annual reports were completed, with the remainder being finalized as of the end of the reporting period. Recordings of CPC meetings remained posted and available as well. CPC members have requested additional training, including assistance in updating the CPC strategic plan and conflict resolution. CPCs have also requested more involvement in the budget development process for funds allocated to support CPCs. As required by the City ordinance pertaining to CPCs, the monitoring team suggests that the Mayor and Chief of Police meet with CPC chairs annually to share accomplishments, concerns, and future challenges.

The continued dedication and commitment of CPC members remain the most important factor in the continued operations and success of the CPCs. As noted in previous IMRs, volunteers have devoted their time and effort to build the foundation for the successful operations of CPCs. CPC voting members in the past updated program guidance and demonstrated flexibility by fully adapting to hosting meetings virtually. The CPCs are now demonstrating to other organizations how to successfully conduct hybrid meetings that include both in-person and virtual attendance. The leadership of CPCs continues efforts to expand and diversify membership and now operate under the recently enacted city ordinance codifying CPC operations. The monitoring team believes it is important for the City to continue to find ways to celebrate and honor this volunteerism that contributes to community safety and advances reform efforts. CPC members' 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 his reporting period, CPCs successfully experimented with and implemented hybrid meetings, allowing for in-person and virtual participation. Meeting invitations were posted and announced using social media platforms. A participatory webinar format allowed for exchanges among voting members and Q and A from other meeting participants. These sessions were often well attended, and topics contributed to robust discussions among participants. The monitoring team also observed increased interaction among APD meeting participants and CPC members. CPC agendas and topics continue to align with CASA objectives and address a wider range of APD policies, practices, and strategies, and this reporting period included the following examples:

- Homelessness, Housing, and Motel Vouchers;
- APD Police Academy Operations;
- Rapid Accountability Diversion Program;
- Crimes Against Children;
- Crime Stoppers;
- External Use of Force Investigation Team (EFIT); and
- Mental Health Response Advisory Council (MHRAC).

The CPC meetings also provided opportunities for police leadership, including the Chief of Police, to address CPC members in each command area and engage in question-and-answer sessions. These meetings also provided a platform for APD presentations and

discussions regarding CASA compliance and challenges. CPC sessions always provided opportunities for ongoing dialogue with area commanders and staff concerning neighborhood crime and safety issues. CPCs continue to seek opportunities to enhance their working relationships with APD and the City and be provided greater opportunities for more meaningful input in APD policy development and policing strategies. Several CPC members also continue to voice concerns about ensuring adequate APD response to concerns and recommendations that have touch points with other City agencies.

During this reporting period, the CPC and APD firmed up the recommendation process, and APD responded to most pending recommendations. The number of recommendations reported by CPCs declined, causing some concern about the CPC deliberative processes. There were only two recommendations submitted in this reporting period, and they were:

- A trial process to assess a streamlined approach to use of force reviews; and
- Disciplinary actions based on policies at the incident's time rather than the review time.

The monitoring team encourages CPCs to return to their prior practice of regularly developing and submitting recommendations to APD for their consideration.

In the previous reporting period, CPCs generated the following recommendations:

- 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.

In this reporting period, CPCs experienced significant membership turnover and encountered ongoing challenges in broadening participation and providing more meaningful input concerning APD policy and operations. The monitoring team suggests the City and APD to work with CPCs to expand recruitment efforts and find ways for more CPC input in APD policy and practices as envisioned by the CASA. The monitoring team remains encouraged that CPCs will actualize their vision as a significant linchpin in the APD community engagement strategy. These formalized and highly active advisory bodies in each of the six area commands maintain a public profile and have increased collaborative efforts within their area commands.

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 but one of its 2021 CPC annual reports during this reporting period and presented them in a standard format that captured CPC annual activities and achievements. The remaining report was completed shortly after the end of the last reporting period. The monitoring team provided technical assistance in earlier reporting periods to the CPCs, which helped to promote standardization in annual reports. Five of the six reports were posted on the CPC website during this reporting period. The reports also included 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 (CPOA), including the Civilian Police Oversight Agency Board (CPOAB or the Board). These paragraphs require an independent, impartial, effective, and transparent civilian oversight process that investigates civilian complaints, renders disciplinary and policy recommendations, trend analyses, and conducts community outreach, including publishing semi-annual reports.

During the monitoring period and the June 2022 site visit, members of the monitoring team held meetings with the Interim CPOA Executive Director and her staff, the CPOA/CPOAB Attorney, and members of the CPOAB. We reviewed relevant training records and selected (by way of a stratified random sample) and reviewed eleven CPOA investigations and appeals. The CPOA investigations reviewed were [IMR-16-47], [IMR-16-48], [IMR-16-49], [IMR-16-50], [IMR-16-51], [IMR-16-52], [IMR-16-53], [IMR-16-54], [IMR-16-55], [IMR-16-56] and [IMR-16-57]. We also identified and reviewed six (6) non-concurrence decisions: [IMR-16-74], [IMR-16-75], [IMR-16-76], [IMR-16-77], [IMR-16-53], and [IMR-16-78].

The findings related to Paragraphs 271 through 292 indicate the following outcomes related to the requirements of the CASA.

CPOAB

A personnel shortage once again beleaguered the CPOAB in the IMR 16 period.

Since IMR-9, the monitoring team has discussed the lack of full membership of the CPOAB and the negative impact on workload and effectiveness. 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.

The instability and disarray have continued into the IMR-16 period. Two experienced board members resigned during this period, and the Interim Executive Director resigned from her interim position. The resignation letter of one of the Board members cited examples of alleged "serious board dysfunction" and alleged the following of individual agendas at the expense of Board obligations set forth in the CASA and the Albuquerque Police Oversight Ordinance (the Ordinance). Consequently, civilian police oversight in Albuquerque has continued its non-compliance for this paragraph during this reporting period.

The overarching concern at this point is how to move forward and correct the trajectory of civilian police oversight. In that regard, we reiterate what we highlighted in IMR15. The primary challenge will be re-initiating the civilian police oversight process during the IMR-16 period. The tasks ahead for CPOA Board include:

- Building on past successes such as the revised CPOA Policies and Procedures and Code of Ethics;
- Re-establishing full board membership; and
- Designing a workflow that does not micromanage the CPOA investigative work product, and that allows the Board to meet its many tasks effectively and work harmoniously with the CPOA office.

Successfully meeting these tasks is long overdue. The IMR-17 period is critical to the Board reversing the trajectory of civilian oversight. An effective and harmonious relationship between the Board and CPOA and the new Executive Director is a crucial ingredient and a monitoring focus of concern.

On a positive note, there have been evident efforts by the involved individuals to hold the oversight process together until the Board returns to its full complement.

Two new Board members were appointed in the IMR-16 period, bringing the current complement to six. A new Executive Directive with relevant experience and suitable credentials has been hired. The former Interim Executive Director can now focus full-

time on her role as Lead Investigator. The City Council enacted changes to the CPOA Ordinance during the period. Shortly after that, the Board enacted revisions to its Policies and Procedures at the very end of the reporting period. Although CPOA Board's updating of Policies and Procedures is generally positive, these revisions were promulgated and approved without input from the Parties or review by the monitoring team. The Policies and Procedures will be a focus of review and comment in the next monitoring report. We also note that City Legal was not consulted or informed during these processes.

The CPOA Board vetting process exhibits serious issues with several key processes required by the CASA. These include:

The monitoring team and the Parties have discussed proper vetting procedures with City Council. The challenge for the City is to continue refining 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 should also include advising potential appointees of 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 would gain a realistic assessment of the demands of a board appointment prior to a formal appointment by Council.

The monitoring team realizes that staying abreast of six resignations within a relatively short period is challenging for even the most effective vetting process. We will continue to reassess the process to determine if it is up to the challenge of appointing three qualified board members to bring the Board to its full complement. This should be one of Albuquerque's highest priorities for civilian police oversight. The monitor is aware that there is an inherent tension between the number of Board members and the number of *qualified members*. It is incumbent on the City to achieve both—recruiting a sufficient number of *qualified* members should be a primary goal.

During our site visit, the monitoring team had several meetings with various City Council members. 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, and is attentive to issues involving the improvement of the process. We note the revisions to the Ordinance effected by Council in the IMR-16 period were intended to provide more guidance to the oversight process and ensure full compatibility with CASA requirements for the CPOAB and CPOA.

Based on our observations and review of CPOAB meetings, agenda, and minutes, we note that the CPOAB and CPOA appear to recognize the need to be fair, objective, and impartial. That notwithstanding, Board members should be mindful of extemporaneous remarks made during meetings that could call into question their impartiality. Acceptance of, and trust in, the civilian oversight process by both the community and APD is necessary for success of the process and requires objectivity and impartiality as well as the perception of same.

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 were encouraged to note that in IMR-15, all approved investigative positions had been filled. With the Lead Investigator's return to a full-time role, the CPOA currently has all seven approved investigative positions occupied. This is a major milestone. Unfortunately, there have been no recent "staffing studies" designed to identify the optimum number of investigators for CPOA staff. Consequently, the City is making decisions regarding CPOA staffing requirements without access to professional analyses. We note here that CPOA caseloads for its investigators is 18 active cases. The same figure for IAFD caseloads is 6.5. This disparity appears to be problematic, and we suggest the City consider a formal time-management study to assess the proper caseload for CPOA investigators.

Most investigators are relatively new and are going through a normal learning curve, gaining experience during the IMR-16 time period. This full complement should have a tangible impact on CPOA investigative output. We also point out that with the addition of the new Executive Director and the full-time return of the Lead Investigator, the guidance to the investigative staff and exercise of quality control over its work product the Agency is in a strong position. If the increase in investigative personnel does not result in expected improvements, a staffing and time-management study may be warranted for CPOA.

CPOA still has openings for two other approved and funded positions, a Community Engagement Specialist and a Policy Analyst. The specialist will enhance the office's community outreach efforts, and the analyst will focus on aiding the Board in its trend analysis and policy and training recommendations. Filling these positions should be a significant priority.

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. The training provided 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 through the last IMR 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. 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 could 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 note that steady progress related to initial training has been made during the IMR-16 period. A refined 24-hour course was proposed by the Board and approved by the monitoring team. The testing, objective verification, and tracking methods underwent a collaborative review process at the end of the IMR-16 period.

Likewise, progress has been made regarding annual training requirements. The annual NACOLE seminar, and an annual legal update to be provided by CPOAB counsel or the legal updates given to APD, detailing changes in relevant law, policy, CASA requirements, or Ordinance implementation, will constitute the eight hours of annual training, with four hours being tallied for the annual NACOLE seminar and four hours credit for the legal updates training received by Board members. This varied approach has the benefit of exposing board members to the national oversight models and issues presented in the NACOLE seminar, while allowing for more Albuquerque/ CASA/Ordinance-centric updates.

With the gradually diminishing COVID-19 threat, the ride-along requirement was reinstated during the IMR-16 reporting period. With the clarification that a ride-along need not exceed 4 hours, that requirement should be more attainable for board members.

The new training tracker for CPOAB training requirements is a significant improvement and shows diligent training efforts by board members. However, it does not clearly identify if all initial and annual training and ride-along requirements were completed within applicable periods. Regarding initial training requirements, there are indications that at least one required training block was not yet available.

The CASA places clear training requirements on the CPOAB. 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 during the IMR-16 reporting period demonstrate recognition of this principle. To regain compliance, all

serving board members will need to comply with initial and annual training requirements by the end of the IMR-17 reporting period.

Further, 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, as well as eight 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-16 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.

Another area of continued challenge is the CPOAB's ability to find the correct balance of the tasks required by the CASA. These tasks consist of reviewing the handling and disposition of citizen complaints, reviewing officer-involved shootings, as well as serious use of force incidents, recommending changes to APD policy and training, and monitoring long-term trends, particularly trends relating to use of force.

The CPOAB is failing in its mission of trend analysis, primarily because it has historically chosen to spend more time overseeing and drilling down on the investigative findings and disciplinary recommendations, at the expense of other board tasks, and because of it has been understaffed for extended periods of time. In addition to a full complement of board members, a better balance of time and duties is needed to address the trend analysis and policy and training recommendation missions. This balancing is critical for the success of this civilian police oversight model and for achieving compliance. Also, technical assistance from the monitoring team (which has been offered) or external sources may be in order. This training should be designed to assist the Board with its more complex tasks. The Board should seriously consider seeking same.

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 could move to more of an audit function, in which only a random number of cases involved a CRC review of the entire investigative file. We commented in IMR-15 on the CRC meeting schedule for the IMR-14 and IMR-15 periods. In the IMR-16 period, three scheduled meetings of the CRC were canceled, and only two were held. Those meetings considered no individual cases but instead focused on CPOA Policies and Procedures. This appears to have been at the expense of the committee's established central functions.

The IMR-16 period saw the investigative review process of the entire Board continue, whereby at least ten days before the general 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. We urge the Board to assess this process and reach a harmonious arrangement with the new Executive Director in exercising its approval of CPOA findings and recommendations and balancing its numerous duties to allow it

enough time to lend its insight and community perspective to policy, training, and data and trend analysis of APD.

The Policy and Procedure Review Subcommittee (PPRC) met three times during the IMR-16 period and canceled three scheduled meetings, one of which was for lack of quorum. Meeting minutes revealed committee review of a meaningful number of SOPs, resulting primarily in making "no recommendation" for change.

The chair of the PPRC resigned from the Board during the IMR-16 reporting period, and a new subcommittee chair was appointed. This chair has continued to act as a policy liaison to APD and, along with the Executive Director of the CPOA, attends meetings of the APD Policy and Procedure Review Board (PPRB). Currently, the CPOAB's policy efforts are being assisted by the CPOA data analyst.

The Board has been hampered in its mission to review adequate numbers of OIS and serious use of force incidents and to make appropriate recommendations to APD. The obstacle is a lack of a Memorandum of Understanding (MOU) between the City, CPOA/CPOAB, and the APOA on a more timely and user friendly access to OIS/SUOF materials. A proposed MOU has been the subject of negotiations since at least the IMR-14 period. The hang-up appears to be the CBA's treatment of Garrity materials and the APOA's objection to the Board's access to such materials without appropriate redactions. The time and effort needed to effectuate the redactions result in delays for the Board to receive the materials so that they can timely contribute to the review and recommendation process. The monitoring team believes that the CASA requirements and the CBA language do not so rigidly clash to the extent that they pose an insurmountable impasse in this situation. In the monitor's opinion, a settlement allowing the Board to timely carry out its responsibilities is long overdue.

The Interim Executive Director continued to attend and participate in the FRB meetings. CPOA does not investigate officer-involved shooting or serious use of force incidents, but reviews them and shares findings with the Board. The CPOAB reviews the CPOA and FRB findings regarding OIS and SUoF incidents and, through the CPOA, concurs or non-concurs and communicates the same to APD, along with recommendations when it deems them appropriate. We urge the new Executive Director to continue contributing to the FRB process and for the Board to increase the timeliness and number of these reviews, so that APD can consider its findings and recommendations in a timely manner.

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 access to information and facilities reasonably necessary to investigate civilian complaints.

CPOA continues to have the authority to recommend findings and disciplinary action in cases involving civilian complaint investigations. The Superintendent, or a designated

disciplinary authority, retains the discretion to impose discipline but is tasked with writing a non-concurrence letter to the CPOAB when there is disagreement with the CPOA recommendations.

As we noted in the past 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 sample of eleven CPOA cases included two (2) investigations that were administratively closed [IMR-16-55] and [IMR-16-56]. We find both administrative closures to be appropriate.

That positive finding notwithstanding, we believe it is worth reiterating that the monitor has approved of the use of administrative closure 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 the 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 no indication of misconduct unrelated to the original complaint was identified.

Regarding CPOA investigations in which administrative closure was not utilized, we found three to be deficient in that the investigative record was not thorough enough because proper investigative steps were not taken and/or the analysis of evidence was lacking [IMR-16-57], [IMR-16-47], and [IMR-16-52].

The first, [IMR-16-57], involved a website complaint regarding the towing of a vehicle. There were several allegations encompassed in this complaint. The first involved officers conversing with the female driver of a vehicle (the complainant), in which there was also a male passenger. There was evidence of a homeless individual living nearby where the car was parked, but no one was at the suspected homeless campsite. The officers suspected the male passenger in the car to be the homeless person. The complainant driver told the officers that the vehicle had been "red tagged" and that she was still within time (the red tag period). The officers told her to move the car within a certain agreed-upon period. The next incident occurred the following day when the officers returned to the scene, and the car was gone. While telling an adult male found at the homeless site that he must move from the site, the officers were then told by a passerby that the car (complainant's vehicle) had been moved nearby. The officers located the car, now unoccupied, and had it towed for being within 100 feet of the corner and unregistered. The final incident involved a telephone conversation wherein the complainant called dispatch, wanting to speak with one of the officers, and the subject officer (first officer) called the complainant back.

The second officer was exonerated on SOP 2,48.2.B.2 (reasons for towing) and unfounded on 2.48.2.A (requirement to file a towing report). The first officer had allegations exonerated on 2,48.2.B.2 (reasons for towing) and unfounded on 2.48.2.A (requirement to file a towing report). The first officer also had allegations exonerated on 1.1.5.A.1 (respect, courtesy, and professionalism) for the first conversation, which occurred at the car and was recorded. An un-sustained finding on the 2nd conversation (phone conversation for which no recording could be produced), and a sustained allegation "not based on original complaint" for failing to record the phone conversation (OBRD 2.8.5.A).

The above findings we find to be consistent with the record in this investigation, but we find that the analysis in the record (Conclusion and Recommended Findings section) of the investigative report) should have been more robust. First, the rationale behind the un-sustained finding (1.1.5.A.1) on the second conversation (telephone conversation) is not articulated and is unclear. It appears that since the allegation and investigation resulted in a "she said/he said" situation without objective corroboration, the default position was "un-sustained." Although lack of corroboration for an allegation is a factor to consider in reaching a finding, a credibility assessment between both versions can and should be made even when there is no objective evidence corroborating one version or the other. Here, regarding the first conversation between the subject officer and the complainant, the OBRD showed that the subject officer's demeanor was firm but professional, and that the complainant's description of the officer's conduct was inaccurate, and thus was either the product of misperception or fabrication. When assessing credibility of the allegation regarding the unrecorded telephone conversation, a permissible inference can be drawn from this first conversation that the officer's conduct alleged in the unrecorded conversation was also the product of misperception or fabrication. If the investigator feels this inference is appropriate under the facts, the inference can be articulated along with the lack of objective corroboration for the allegation in reaching the appropriate finding. If the investigator feels that the particular facts of the case do not give rise to such an inference, that too, should be articulated. If, after an assessment of individual credibility and of all the evidence, both versions are of equal credibility, which do not support either a sustained finding or findings of unfounded or exoneration, that should be articulated when reaching an un-sustained finding

Regarding the sustained allegation of failing to activate the OBRD to record the telephone conversation, the investigative record clearly established that no OBRD or recording of any kind was available. However, it did establish whether the OBRD was never activated or whether the officer failed to tag or otherwise preserve the recorded conversation. The officer asserted that the conversation was recorded and had no real explanation for why it did not exist. There is a difference in classification of offense between failure to record and failure to upload. The issue of whether the OBRD was not activated or whether the officer activated the OBRD but failed to tag or otherwise preserve the conversation should have been more clearly addressed and articulated on the investigation.

We do not find that the investigation reached findings inconsistent with the investigative record, rather, the record and analysis should have been better articulated and

documented. When competing versions of an allegation exist, a credibility assessment should be made beyond just a listing of evidence, articulating why one version is more credible than the other or why each version is of equal weight and then making findings consistent with the assessment. We realize that articulating credibility assessments without objective corroboration for one version or the other is not the easiest of tasks; however, steps must be taken to explain in writing why one version was believed over the other, or why they are equal.

[IMR-16-47] is another matter where we do not find the ultimate findings to be incorrect or inconsistent with the record; however, we find an incomplete analysis/development of the record (lack of credibility assessment). Here, a website complaint presented allegations against an officer for unsafe driving and profanity/unprofessional demeanor. There was no video of the officer's driving, but there was OBRD video of the conversation between the officer and the complainant. The allegation of profanity/lack of professionalism was unfounded (clear and convincing standard) based on the officer's interview and review of the OBRD video, the allegation of improper/unsafe driving was not sustained. Multiple attempts to interview the complainant and witness were referred to in the investigative report, but not documented. The officer denied improper driving, and there was no OBRD/video of the officer's driving conduct. Again, this analysis appears to be based on an allegation, a denial of allegation, and no objective corroboration, and therefore, an un-sustained finding. A credibility assessment can still be made even in the absence of objective evidence that corroborates one version or the other. Here, the OBRD shows professional interaction by the officer during the motor vehicle stop and no profanity, a direct contradiction of the complainant's description of the officer's conduct and demeanor. This fact can be used in the analysis of credibility when differentiating between the different versions regarding the allegation of improper driving

[IMR-16-52] involved a website complaint against an officer for failing to protect in a situation involving threats and demeanor violations. The investigation was unfounded on allegations for SOP 1-1-5A.1 (treat public with respect, courtesy, and professionalism) and sustained on 1-1-6A.1 (behavior that brings discredit or impairs efficient and effective operations) for failing to ensure periodic watch/safety drive-by and also sustained on 2-60-4A5f (failing to file a supplemental report).

Although the findings are not inconsistent with the investigative record, the issue of whether the officer requested periodic watch/patrol was not completely resolved. According to the subject officer, who thought he had requested the safety patrol but could not produce proof, a patrol could have been requested but not associated with the CAD. The second officer involved in the incident was not interviewed because both officers' OBRD videos captured the entire interaction with the complainant. However, the issue of whether the safety patrol was requested could have been more reliably closed out with an interview of the second officer, particularly since the subject officer's memory was hazy on this issue. Moreover, when responding to an incident where a restraining order is requested, one of the responding officer's first and most critical issues is determining whether any potential victim qualifies as a "household member" under the New Mexico Family Violence Protection Act. Here, the subject officer

assumed that this was not a "domestic violence" situation but did not close out the issue of whether the person making threats would qualify as a "household member" of any of the individuals present (there was an indication in the incident report that the person making a threat had been a roommate of one of the persons present). The reason for failing to ask adequate questions to determine whether an emergency order was warranted under the Act, as opposed to the advice given to get a restraining order in civil court based on the assumption that this was not a domestic violence situation, was not pursued in the complaint investigation. Failing to perform an adequate investigation to determine whether any individuals qualified for an order as a former "household member" could be an additional basis for failing to conduct an adequate preliminary investigation. The issue should have been addressed in the complaint investigation.

Two matters insightfully noted in the CPOA investigative report could have been highlighted as aggravating factors. Regarding the failure to conduct a proper preliminary investigation/failure to file a supplemental report, the subject officer concluded that a text to a juvenile present at the scene was "a legitimate threat." The fact that the threat made to a juvenile was determined to be real by the subject officer, yet still not put into a supplemental report, is an aggravating factor that goes beyond the mere failure to file a supplemental report. In addition, another officer filed a previous incident report related to the incident for which the subject officer was called. The fact that this previous report was not reviewed was noted in the CPOA investigation, but should have been cited as another example of inadequate police work, that is, a decision not to file a supplemental report because of a belief that the prior incident report addressed the subject matter, without even checking the prior incident report.

Finally, in regard to the threat made against the juvenile, a review of the subject officer's OBRD video shows the subject officer asked the juvenile whether the juvenile wanted to pursue criminal charges. The answer, which could have been important in judging the adequacy of the subject officer's actions, was inaudible due to background noise. The investigative report states that "a review of the lapel videos" was conducted, implying a review of the OBRD videos of both officers. However, in referencing the inaudible response the investigative report addresses only the video of one of the subject officers. What was not clear from the investigative record was whether the juvenile's response on the second video was also inaudible or whether any efforts were made to reach the juvenile for clarification of his response to the officer's questions.

In summary, our analysis reveals investigations generally of appropriate quality, but three of the eleven cases needed to be more thorough, in order to meet the CASA's thoroughness and reliability requirements. This represents a CPOA compliance rate of 73 percent, a marked improvement from the 60% compliance rate in IMR-15 but still well short of the 95 percent required for compliance.

In addition, there are several matters that, although we do not find problematic for compliance purposes, we nonetheless point out concerns about conducting fuller investigations, definitively closing out issues, and improving communication with complainants. These include:

- [IMR-16-56] involved an administrative closure of a complaint from a federal inmate against a detective for not honoring a deal to treat the complainant as a paid informant. The closure was appropriate based on a finding that the subject of the complaint was a DEA employee and not a member of APD. The records request in this investigation was made for an incident involving the complainant and the named detective for an approximate period in which the complainant may have been working as an informant. No records were found responsive to the request. However, the investigation did not provide the underlying information or documentation to conclude the subject was a DEA employee and not an APD employee. Although documentation was provided to show that APD did not arrest the complainant, members of APD can participate in task forces that produce federal cases or cases in other jurisdictions. These may not be reflected as an APD arrest. Whether the subject officer was never an APD employee is a simple matter. While we do not think the CPOA investigator would erroneously conclude that fact, documentation should have been provided in the investigative file to back up the investigator's written assertion conclusively. Also, the investigator reached out to the complainant by phone through the federal Bureau of Prisons (BOP) and was told he could not schedule a call because he was not on the complainant inmate's call list. Thus no interview or conversation for clarification of complaint purposes was ever undertaken with the complainant. If a conversation with the complainant was warranted, then the investigator could have written a letter to the inmate requesting that the investigator be put on the inmate's call list, and then follow up with a telephone call. Lastly, the correspondence back to the complainant synopsised the substance of the complainant, revealing that the complainant claims he was at one time an informant for law enforcement. The only issue that needed to be stated was that the subject officer was never an employee of APD.
- [IMR-16-49] involved an email complainant who wished to remain anonymous. The complaint was devoid of detail and generally alleged a cover-up of an incident by several APD employees. No records corroborated that such an incident occurred or was called into APD. Interviews of APD members were not conducted due to a lack of specificity/information in the complaint and due to a memorandum from the Emergency Communications Center (ECC) addressing attempts to locate a report of the incident and finding no related records. This memorandum lacked sufficient detail, such as addresses and time periods, to conclusively tie the search to the appropriate residence and the complaint. Assuming the ECC research for records was focused on the appropriate address and approximate time periods, an administrative closure without further investigative steps is not improper. We believe the CPOA investigator properly relied on a memo regarding a relevant search of records. Still, more detail in the search memorandum or the request for the search from CPOA with sufficient information to tie the search to the allegation should have been provided in the investigative file.

CPOA is hereby put on notice that even if they are confident that the OBRD recordings and preliminary assessment of evidence support their findings, failure to make complete

efforts to gather potentially relevant evidence to close out issues, and/or failing to document those attempts and "close-out" of issues could render investigations incomplete and thus deficient for purposes of paragraph 183 analysis.

It may be that the deficiencies or shortcomings noted are related to the CPOA workload, the former shortage of investigative personnel, and the fact that the Lead Investigator was in a dual role. As stated earlier in this section of the IMR, with the hiring of the new Executive Director and the return of the interim Executive Director to a full-time role as lead investigator, greater guidance and quality review of the investigative work product should now be exercised.

Appeals and Requests for Reconsideration

We have reviewed the Board's consideration of requests for reconsideration and appeals in its meetings and meeting minutes for the IMR-16 period. Based on these observations and the Ordinance and the Board's Policies and Procedures, we find that the CPOAB continues to provide a process of meaningful appeals for complainants seeking to appeal CPOA investigative findings relative to their complaints.

The monitoring team has previously stated that the Board needs to establish an equilibrium in reviewing the work product of the CPOA office *viz a viz* other duties established by the CASA. Although not requiring a detailed review by the Board of a full evidentiary file in every investigation (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. The Board may use its role in the appeals process to meet its oversight of CPOA investigations.

Non-Concurrence with Findings and Recommendations of Executive Director

Non-concurrence letters involve the CPOA and CPOAB but are required tasks for APD leadership. We met with the CPOA and reviewed non-concurrence letters written by the acting Superintendent of Reform or designated disciplinary authority in the IMR-16 review period. We reviewed the following non-concurrence letters issued in the IMR-16 period: [IMR-16-74], [IMR-16-75], [IMR-16-76], [IMR-16-77], [IMR-16-53], and [IMR-16-78].

The monitoring team does not believe that compliance is difficult to achieve regarding the non-concurrence letters task contained in paragraph 285. 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, should suffice.

APD has accepted this message and has given adequate time and effort to this task. The overhaul quality in meeting the spirit of the requirement for non-concurrence letters has greatly improved. Of the non-concurrence letters reviewed during this monitoring period, some are more robust than others, and all but one clearly reasoned and written. For example, the monitoring team expects the most detail in a non-concurrence letter

where the disciplinary authority reverses a sustained finding of the CPOA. Changing the degree of a finding that is not sustained, such as an un-sustained finding to an unfounded or exoneration, would require less detail but should still be sufficient to explain the reasons for the change. Where the non-concurrence regards only the disciplinary recommendation as opposed to a finding, adequate explanation and reasoning should still be given, commensurate with the degree of non-concurrence. In short, based on the nature and degree of the non-concurrence, adequate detail and explanation should be given to show sincere consideration of the CPOA findings and recommendations that reasonably explain the basis of the disagreement or non-concurrence.

In this regard, we found the non-concurrence letter in [IMR-16-78] to be short on detail. This non-concurrence involved an upward departure from the recommended discipline of CPOA that doubled the discipline. No aggravating factors or reasons were set forth as a basis for the non-concurrence.

Overall, the level of appropriate non-concurrence letters for this reporting period fell to 83 percent. This represents a 12-point shortfall below the required 95 percent compliance level required by the monitor's methodology.

Timeliness of Investigations

As the monitoring team has noted since IMR 8, during the review of random samples of investigations, 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 site visits, the monitoring team has discussed with the CPOA 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.

During this reporting period, the monitoring team found two investigations, [IMR-16-56] and [IMR-16-47], that exceeded the 120-day limit. Neither delay was a major delay (both less than 14 days) and, in light of the findings, did not result in discipline being time-barred. In [IMR-16-56], the administrative closure memo exceeded the 120-day limit by fifteen days; in [IMR-16-47], the investigative report exceeded the limit by eleven days. This constitutes an 81% compliance rate, a slip from the 100% rate in the last IMR, but still a demonstration that CPOA continues to address its timeline deficiencies from the past.

Mediation

In our review of stratified random sample of eleven CPOA cases, we found three, [IMR-16-47], [IMR-16-53], and [IMR-16-54], that we believe would have been appropriate for mediation (with consent by the complainant and officer to mediate). No documentation

was provided to validate that efforts were made to refer these matters to mediation. The city has taken significant steps toward improving the mediation component of CPOA processes. The CPOA ordinance was amended during the 16th reporting period.

CPOA has worked to establish a permanent mediation process. During this period, City Legal and CPOA worked with City Council to amend the CPOA Ordinance to include mediation provisions. The amendments were enacted in May 2022, paving the way for CPOA to implement a mediation program without CASA/federal court authority.

The monitoring team agrees that effective use of a mediation policy can be 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.

Community Outreach and Public Information

CPOA continues to have an active and robust community outreach program that 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-16 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 the CPOA Executive Director, is proving to be a significant enhancement to the CPC mission and the community outreach function of the CPOA.

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 pending the hiring process is that of Community Engagement Specialist.

In our review of the public information requirement for CPOA, 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. Both semi-annual reports for 2020 and the semi-annual report for the first half of 2021 were filed. A draft of the semi-annual report for the second half of 2021 was completed by the CPOA and submitted with sufficient time for the Board to review and approval at its June 9 meeting. 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**

Recommendation for Paragraph 273:

4.7.258a: Ensure that appointments and reappointments of CPOA Board members are timely and 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.

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.

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: 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: **Not In Compliance**

Recommendation for Paragraph 276:

4.7.261a: Members of the CPOAB should complete two ride-alongs during each reporting period.

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: **Not In Compliance**

Recommendation for Paragraph 277:

4.7.277a: A Memorandum of Understanding (MOU) between the City, CPOA/CPOAB, and the APOA on access to OIS/SUOF materials should be finalized and implemented, or some other solution reached, in order to allow the CPOAB more timely access to materials needed for review of OIS and SUOF incidents/investigations. This is a critical component of the CASA’s community oversight processes.

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:

The Board should exercise its oversight of citizen complaints in a fashion that provides meaningful review while at the same time adequately addresses trend analysis and policy and training recommendations, particularly concerning Use of Force and APD's 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: **Not In Compliance**

Recommendation for Paragraph 281:

4.7.266a: Ensure all investigations are assigned within the agreed-upon seven days.

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: **Not In Compliance**

Recommendation 4.7.267: The City should resolve on-going issues concerning APOA and the board related to access to OBRD videos as part of the investigative process at CPOA.

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: **In Compliance**

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 events are appropriate for a high 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.

In the course of an appeal, if 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 investigative record sufficiently supports the Board's findings and additional investigation is not warranted. When the CPOAB 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: **Not In Compliance**

Recommendation for Paragraph 289:

4.7.274a: Specific policy revision/creation reinforcing Paragraph 289 processes should be considered, developed, and submitted to the Parties and the monitor for review and comment.

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: **In Compliance**

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."

Results

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

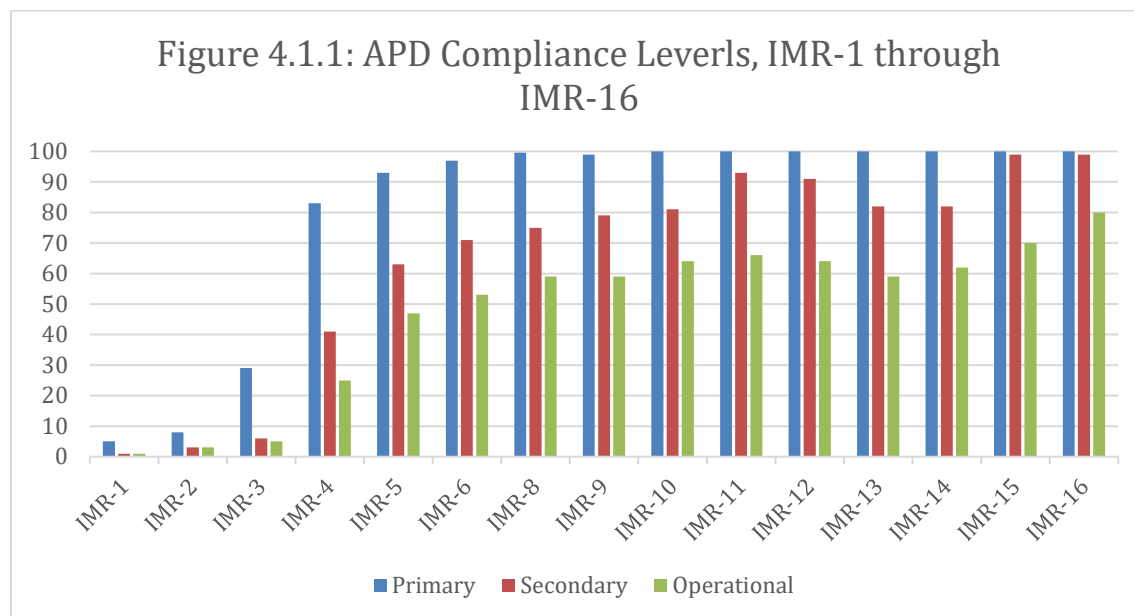
5.0 Summary

Successes for IMR-16 reporting period are both substantial and consequential. During the reporting period:

1. APD implemented policy, training, and practice changes that resulted in a ten-percentage point increase in operational compliance, from 70 percent in IMR 15 to 80 percent in IMR 16.
2. Recruiting and BSS continued their positive arc of change, and solidified new policy and practice that has aided compliance efforts;
3. IAPS has continued to improve the quality and scope of its investigations;
4. APD has increased substantially the number of ECIT certified officers responding to mental health-related calls for police service;
5. SOD and SID continue to perform their day-to-day tasks in a manner that is highly congruent with the requirements of the CASA;
6. Albuquerque’s Citizen Policing Councils have matured to the point that they are among the best in the nation; and
7. Community outreach efforts at APD have taken on a new level of engagement.

The monitoring team is acutely aware of the effort APD undertook to generate these positive findings. We also detect a substantial shift in mind-set and vision at the executive and command levels at APD related to the oversight of use of force and in-field delivery of policing services.

The overall compliance levels are reflected in Figure 5-1.



APD remained consistent with its Primary and Secondary compliance findings at 100 percent and 99 percent, respectively. During this reporting period, APD's Operational compliance increased by nine percent. APD's Operational compliance is now at 80 percent.

Current Challenges

Challenges remain to be addressed if APD is to reach full compliance with the requirements of the CASA. These include:

1. Transitioning EFIT oversight responsibilities regarding use of force investigations back to APD, which will test APD's ability to sustain the obvious progress that is being made with the day-to-day external oversight provided by EFIT;
2. Ensuring investigative quality are not features that exist only while EFIT is present;
3. Expanding IAFD detectives' and investigators' competencies requires the support of commanders and allowing time to accumulate personal experiences dealing with officers and the complexity some cases bring. Stabilizing turnover in IAFD's supervisory ranks and investigative staff in the long term will be a key factor for success;
4. The process narrative was put into place to establish standards and a system by which all use of force investigations will be assessed for adequacy. During this monitoring period, APD significantly reduced failure rates among investigations that were submitted through the chain of command. Since reductions in failure rates are attributable to the quality of training and supervision in IAFD, they can be reasonably viewed as a predictor of IAFD's ability (or inability) to maintain CASA compliance after EFIT is no longer monitoring IAFD's quality of work. The assignment of a new commander at IAFD during this monitoring period had a significant positive impact of reducing failure rates. Still, APD must ensure that the improvements are not dependent on the ability of a single commander and are instead a culturally ingrained standard of excellence;
5. Adequately staffing IAFD and sustaining the core competencies of investigators will be a challenge for APD. Growing detective and investigator competencies require the support of informed commanders and supervisors, as well as accumulating personal experiences dealing with officers and the complexity of some IAFD cases;
6. Stabilizing turnover in IAFD's supervisory ranks and investigative staff in the long term will be a key factor for continued success.

7. Building “bridging” systems to ensure that lessons learned during EFIT processes are internalized, monitored, and protected from deterioration is critical to overall success.
8. Carefully monitoring and assessing IAFD staffing *viz a viz* workload and timeline requirements will be critical as APD begins to assume responsibilities currently being met by EFIT, to provide careful, consistent, and persistent assessment of uses of force by the monitoring team;
9. Developing processes to monitor timeliness and thoroughness of investigations will be critical as IAFD steps into the monitor’s role of independently assessing compliance with the requirements of the CASA and the current expected standards of nationally accepted processes for force investigations.
10. Improving detective and investigator competencies requires the support of commanders and time to accumulate personal experiences dealing with officers and the complexity that some cases bring. Stabilizing turnover in IAFD’s supervisory ranks and investigative staff in the long term will be a key factor for success.
11. It is critical that APD establish the ability to assess and adapt EFIT’s Process Narrative, which was put into place to establish standards and a system by which all use of force investigations are assessed. During this monitoring period, APD significantly reduced failure rates among investigations that were submitted through the chain of command. Since the drop of those failure rates are directly attributable to the quality of supervision in IAFD, they can be reasonably viewed as a predictor of IAFD’s ability (or inability) to achieve CASA compliance after EFIT is no longer internally monitoring IAFD’s quality of work. The assignment of a new commander within IAFD during this monitoring period had a significant positive impact on reduced failure rates. Nonetheless, APD must ensure that the improvements are not dependent on the ability of a single commander and are instead a culturally ingrained standard of excellence, supported by good policy, well-trained personnel, and strong supervisory and management oversight.
12. Establishing an internal assessment and problem-solving practice to identify, assess, and remediate systems issues leading to failures to comply with the process narrative for internal investigations should be a high-priority goal of APD leadership.
13. Revising APD’s annual use of force reporting processes should be implemented to reflect correct information once EFIT-2 has completed the investigation of APD’s backlogged use of force cases.

14. IAPS should more closely train and supervise area command investigations to ensure completeness and accuracy.
15. Assessing critical “practice points” that involve CPOA’s contribution to compliance practices and building reliable bridges to interlink CPOA findings into APD policy, training, supervision, command oversight, and leadership processes will be critical moving forward.

The careful reader will note that most of the challenges outlined above fall under the rubric of practice-based leadership. While “technicians” at APD may be partially responsible for the successes noted above, it will be incumbent on leadership to conceptualize and foster the vision and will to modify, plan, and operationalize responses to the remaining challenges noted above. Further, for processes that are deemed effective, APD should ensure their long-term use in the department’s pursuit of compliance with the CASA. APD’s “to do” list, at this point in time is substantial, but the monitoring team notes that the successes outlined above should facilitate understanding and experience that in turn should stimulate effective management of the remaining tasks to be completed.

As always, the monitoring team stands ready to assist APD in conceptualizing, processing, and evaluating the future programmatic changes that are required to facilitate compliance as APD moves to address the outstanding issues noted above.

In the final analysis it will be the role of APD senior executives to ensure that the progress achieved during the 16th reporting period is made part of the department’s continuing efforts.