# Second Monitor's Report

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

No. CIV 14-1025 RB/KK

March 1, 2016

Prepared by:
Public Management Resources, Inc.
James D. Ginger, Ph.D.
Independent Monitor

Table of Contents


| Topic | Page |
|---|---|
| 1.0 INTRODUCTION | 1 |
| 2.0 Executive Summary | 3 |
| 2.1 Overview of This Report's Conclusions | 3 |
| 2.1.1 Use of Force | 4 |
| 2.1.2 Specialized Units | 5 |
| 2.1.3 Crisis Intervention | 5 |
| 2.1.4 Policy and Training | 6 |
| 2.1.5 Internal Investigations and Adjudication | 9 |
| 2.1.6 Staffing, Management and Supervision | 9 |
| 2.1.7 Recruitment, Selection and Promotions | 10 |
| 2.1.8 Officer Assistance Programs | 10 |
| 2.1.9 Community Engagement and Oversight | 10 |
| 2.2 Overview | 10 |
| 3.0 Concerning APD Compliance on Two- and Three- CASA Requirements | 13 |
| 3.1 Compliance with Two-Month Tasks | 14 |
| 3.2 Compliance with Three-Month Tasks | 15 |
| 3.3 Compliance with Six-Month Tasks | 17 |
| 3.4 Summary | 24 |
| 4.0 Baseline Status | 26 |
| 4.1 Overall Status Assessment | 26 |
| 4.2 Dates of Project Deliverables | 26 |
| 4.3 Format for Compliance Assessment | 26 |
| 4.4 Compliance Assessment Process | 27 |
| 4.5 Operational Definition of Compliance | 28 |
| 4.6 Operational Assessment | 29 |
| 4.7 Assessing Compliance with Individual Tasks | 29 |

| | | |
|---|---|---|
| 4.7.1 | Assessing Compliance with Paragraph 14 | 29 |
| 4.7.2 | Assessing Compliance with Paragraph 15: Use of Force Policy Requirements | 33 |
| 4.7.3 | Assessing Compliance with Paragraph 16: Weapons Protocols | 34 |
| 4.7.4 | Assessing Compliance with Paragraph 17: Weapons Modifications | 35 |
| 4.7.5 | Assessing Compliance with Paragraph 18: On-duty Weapons | 36 |
| 4.7.6 | Assessing Compliance with Paragraph 19: On Duty Weapons | 37 |
| 4.7.7 | Assessing Compliance with Paragraph 20: Weapons Qualifications | 38 |
| 4.7.8 | Assessing Compliance with Paragraph 21: Firearms Training | 39 |
| 4.7.9 | Assessing Compliance with Paragraph 22: Firearm Discharges From Moving Vehicles | 40 |
| 4.7.10 | Assessing Compliance with Paragraph 23: Tracking Firearm Discharges | 42 |
| 4.7.11 | Assessing Compliance with Paragraph 24: Use of ECWs | 43 |
| 4.7.12 | Assessing Compliance with Paragraph 25: ECW Verbal Warnings | 44 |
| 4.7.13 | Assessing Compliance with Paragraph 26: ECW Limitations | 44 |
| 4.7.14 | Assessing Compliance with Paragraph 27: ECW Cycling | 45 |
| 4.7.15 | Assessing Compliance with Paragraph 28: ECW Drive-Stun Mode | 45 |
| 4.7.16 | Assessing Compliance with Paragraph 29: ECW Reasonableness Factors | 46 |
| 4.7.17 | Assessing Compliance with Paragraph 30: ECW Targeting | 46 |
| 4.7.18 | Assessing Compliance with Paragraph 31: ECW Restrictions | 47 |
| 4.7.19 | Assessing Compliance with Paragraph 32: ECW Holster | 47 |
| 4.7.20 | Assessing Compliance with Paragraph 33: ECW Certifications | 48 |
| 4.7.21 | Assessing Compliance with Paragraph 34: ECW Annual Certification | 49 |
| 4.7.22 | Assessing Compliance with Paragraph 34: ECW Exposure and Medical Evaluation | 49 |
| 4.7.23 | Assessing Compliance with Paragraph 36: ECW Notifications | 50 |
| 4.7.24 | Assessing Compliance with Paragraph 37: ECW Safeguards | 50 |
| 4.7.25 | Assessing Compliance with Paragraph 38: ECW Reporting | 51 |

4.7.26 Assessing Compliance with Paragraph 39: Crowd Control Policies 51

4.7.27 Compliance with Paragraph 40: After Action Reviews 53

4.7.28 Compliance with Paragraph 41: Use of Force Reporting Policy 54

4.7.29 Compliance with Paragraph 42: Force Reporting Policy 57

4.7.30 Compliance with Paragraph 43: Reporting Use of Force Injuries 58

4.7.31 Compliance with Paragraph 44: Medical Services and Force Injuries 59

4.7.32 Compliance with Paragraph 44: Medical Services and Force Injuries 59

4.7.33 Compliance with Paragraph 46: Force Investigations 60

4.7.34 Compliance with Paragraph 47: Quality of Force Investigations 68

4.7.35 Compliance with Paragraph 48: Force Classification Procedures 69

4.7.36 Compliance with Paragraph 49: Responsibility for Force Investigations 70

4.7.37 Compliance with Paragraph 50: Supervisory Response To Use of Force 71

4.7.38 Compliance with Paragraph 51: Self Review of Use of Force 72

4.7.39 Compliance with Paragraph 52: Supervisory Force Review 73

4.7.40 Compliance with Paragraph 53: Force Review Timelines 74

4.7.41 Compliance with Paragraph 54: Command Review of Force 76

4.7.42 Compliance with Paragraph 55: Force Review Evidence Standard 77

4.7.43 Compliance with Paragraph 56: Force Review Quality 78

4.7.44 Compliance with Paragraph 57: Force Review Board 78

4.7.45 Compliance with Paragraph 58: Reassignment of Force Review 79

4.7.46 Compliance with Paragraph 59: Abuse of Force Discipline 79

4.7.47 Compliance with Paragraph 60: IAB Force Review 80

4.7.48 Compliance with Paragraph 61: Criminal and Civil Force Investigations 81

4.7.49 Compliance with Paragraph 62: Revision of IAB Manual 82

4.7.50 Compliance with Paragraph 63: Staffing IAB 83

4.7.51 Compliance with Paragraph 64: Training IAB Personnel 84

4.7.52 Compliance with Paragraph 65: Referral of Force Investigations to MATF 86

4.7.53 Compliance with Paragraph 66: MATF Assistance to IAB 87

4.7.54 Compliance with Paragraph 67: Notice to External Agencies of Criminal Conduct in Use of Force 87

4.7.55 Compliance with Paragraph 68: Consultation with External Agencies and Compelled Statements 88

4.7.56 Compliance with Paragraph 69: IAB Responsibilities in Serious Uses of Force 89

4.7.57 Compliance with Paragraph 70: Use of Force Data Reports 91

4.7.58 Compliance with Paragraph 71: IAB Investigative Timelines 92

4.7.59 Compliance with Paragraph 72: IAB Report Review 93

4.7.60 Compliance with Paragraph 73: IAB Findings Not Supported by Preponderance of the Evidence 94

4.7.61 Compliance with Paragraph 74: IAB Quality Control 95

4.7.62 Compliance with Paragraph 75: IAB Reports Sent to Force Review Board 96

4.7.63 Compliance with Paragraph 76: Force Investigations by MATF or FBI 97

4.7.64 Compliance with Paragraph 77: Discipline on Sustained Investigations 98

4.7.65 Compliance with Paragraph 78: Force Review Board Responsibilities 99

4.7.66 Compliance with Paragraph 79: Annual Use of Force Report 111

4.7.67 Compliance with Paragraph 80: Tracking System for Officer Use of Force 113

4.7.68 Compliance with Paragraph 81: MATF Participation by APD 114

4.7.69 Compliance with Paragraph 82: Investigative Protocols for the MATF 115

4.7.70 Compliance with Paragraph 83: Coordination with MATF 116

4.7.71 Compliance with Paragraph 84: Briefings with MATF 117

4.7.72 Compliance with Paragraph 85: Expiration of MOU re MATF 118

4.7.73 Compliance with Paragraph 86: Review of Use of Force Policies and Training 119

4.7.74 Compliance with Paragraph 87: Use of Force Training Based on Constitutional Principles 120

4.7.75 Compliance with Paragraph 88: Annual Supervisory In-Service Training 122

4.7.76 Compliance with Paragraph 89: Annual Firearms Training 124

4.7.77 Compliance with Paragraph 90: Management of Specialized Units 125

4.7.78 Compliance with Paragraph 91: Composition of Specialized Tactical Units 126

4.7.79 Compliance with Paragraph 92: Training of Specialized Tactical Units 127

4.7.80 Compliance with Paragraph 93: Tactical Unit Missions and Policies 128

4.7.81 Compliance with Paragraph 94: Tactical Units Policy and Procedure 128

4.7.82 Compliance with Paragraph 95: Annual Review of Tactical Policies 129

4.7.83 Compliance with Paragraph 96: Documentation of Tactical Activities 130

4.7.84 Compliance with Paragraph 97: Tactical Mission Briefings 132

4.7.85 Compliance with Paragraph 98: Tactical Uniform Requirements 133

4.7.86 Compliance with Paragraph 99: Force Review Board Assessment of Tactical Deployments 134

4.7.87 Compliance with Paragraph 100: Eligibility Requirements for Tactical Teams 136

4.7.88 Compliance with Paragraph 101: Tactical Team Training 137

4.7.89 Compliance with Paragraph 102: Canine Post Deployment Reviews 138

4.7.90 Compliance with Paragraph 103: Tracking Canine Deployments 139

4.7.91 Compliance with Paragraph 104: Tracking Canine Bite Ratios 140

4.7.92 Compliance with Paragraph 105: Analyzing Tactical Deployments 141

4.7.93 Compliance with Paragraph 106: Specialized Investigative Unit Policies and SOPs 142

4.7.94 Compliance with Paragraph 107: Protocols for High-Risk Situations 143

4.7.95 Compliance with Paragraph 108: Inspection of Specialized Units 143

4.7.96 Compliance with Paragraph 109: Tracking Specialized Unit Responses 144

4.7.97 Compliance with Paragraph 110: Minimize Use of Force with Those in Crisis 145

4.7.98 Compliance with Paragraph 111: Establish Mental Health Response Advisory Committee 146

4.7.99 Compliance with Paragraph 112: Representation on MHRAC 147

4.7.100 Compliance with Paragraph 113: MHRAC Provides Guidance to City 148

4.7.101 Compliance with Paragraph 114 requires: MHRAC Protocols 146

4.7.102 Compliance with Paragraph 115: APD Provided Data to MHRAC 149

4.7.103 Compliance with Paragraph 116: MHRAC Coordinates with Local Systems 150

4.7.104 Compliance with Paragraph 117: MHRAC Public Reports 150

4.7.105 Compliance with Paragraph 119: Training for CIT Officers 151

4.7.106 Compliance with Paragraph 119: Crisis Intervention Training 151

4.7.107 Compliance with Paragraph 121: Training Tele-communicators 152

4.7.108 Compliance with Paragraph 122: Bi-Annual Training in Behavioral Health Issues 153

4.7.109 Compliance with Paragraph 123: Crisis Intervention Certified Responders Staffing 154

4.7.110 Compliance with Paragraph 124: Crisis Intervention Staffing Goals 155

4.7.111 Compliance with Paragraph 125: Crisis Intervention Training 156

4.7.112 Compliance with Paragraph 126: Crisis Intervention In-Service Training 157

4.7.113 Compliance with Paragraph 127: Staffing of Crisis Intervention Responders 157

4.7.114 Compliance with Paragraph 128: Responsibilities for Response to Individuals in Crisis 158

4.7.115 Compliance with Paragraph 129: Data Collection on Use of Crisis Intervention Responders 158

4.7.116 Compliance with Paragraph 130: Building Case Studies for Teaching Scenarios for Crisis Responders 159

4.7.117 Compliance with Paragraph 131: Protocols for Response to Barricaded or Suicidal Subjects Not Posing Risk of Imminent Harm 160

4.7.118 Compliance with Paragraph 132: COAST and CIU Follow Up 161

4.7.119 Assessing Compliance with Paragraph 133: Staffing for COAST and CIU 163

4.7.120 Assessing Compliance with Paragraph 134: COAST and CIU Referrals 163

4.7.121 Compliance with Paragraph 135: Staffing Levels for COAST and CIU 164

4.7.122 Compliance with Paragraph 136: Improving COAST/CIU Outreach 164

4.7.123 Compliance with Paragraph 137: Impact Analysis for Crisis Prevention 165

4.7.124 Compliance with Paragraphs 138-148 Training 166

4.7.125 Compliance with Paragraph 149 Briefing on CASA 168

4.7.126 Compliance with Paragraph 150 Distribution of Policy 169

4.7.127 Compliance with Paragraph 151: Training Timelines 169

4.7.128 Assessing Compliance with Paragraph 152: Lateral Hires 170

4.7.129 Assessing Compliance with Paragraph 153: Accurate Training Records 171

4.7.130 Assessing Compliance with Paragraph 154: Updates on Case Law 172

4.7.131 Assessing Compliance with Paragraph 155: Management of FTO Program 172

4.7.132 Assessing Compliance with Paragraph 156: FTO Policies 173

4.7.133 Assessing Compliance with Paragraph 157: Qualifications for FTOs 174

4.7.134 Assessing Compliance with Paragraph 158: FTO Training Requirements 174

4.7.135 Assessing Compliance with Paragraph 159: Rotating Field Training 175

4.7.136 Assessing Compliance with Paragraph 160: Feedback on Field Training 176

4.7.137 Assessing Compliance with Paragraph 161: FTO Support 176

4.7.138 Assessing Compliance with Paragraph 162: Accountability for Conduct 177

4.7.139 Assessing Compliance with Paragraph 163: Duty to Report 179

4.7.140 Assessing Compliance with Paragraph 164: Public Information on Civilian Complaints 180

4.7.141 Assessing Compliance with Paragraph 165: Availability of Complaint Forms 181

4.7.142 Assessing Compliance with Paragraph 166: Public Information on Civilian Complaint Process 182

4.7.143 Compliance with Paragraph 167: Duty to Accept all Civilian Complaints 183

4.7.144 Compliance with Paragraph 168: Requirement for Multi-lingual Complaint Forms 184

4.7.145 Compliance with Paragraph 169: Training on Civilian Complaint Intake 184

4.7.146 Compliance with Paragraph 170: Complaint Receipt Process 186

4.7.147 Compliance with Paragraph 171: Prohibition of Refusal to Take Complaint 186

4.7.148 Compliance with Paragraph 172: Acceptance of Anonymous and Third-Party Complaints 187

4.7.149 Compliance with Paragraph 173: Requirement to Inform Supervisor of Citizen Complaint 188

4.7.150 Compliance with Paragraph 174: Inclusion of Allegations of Misconduct by Civil or Criminal Judicial Officers 189

4.7.151 Compliance with Paragraph 175: Tracking Allegations Made By Homeless or Those Who Have Mental Illness 190

4.7.152 Compliance with Paragraph 176: Centralized Numbering System for Citizens' Complaints 191

4.7.153 Compliance with Paragraph 177: IAB Complaint Data Management 192

4.7.154 Compliance with Paragraph 178: Supervisors to Provide Complaint Information to IAB 193

4.7.155 Compliance with Paragraph 179: Referred of Complaints to CPOA by IAB 193

4.7.156 Paragraph 180: Handling of Internal Complaints by IAB 194

4.7.157 Compliance with Paragraph 181: IAB Complaint Classification Protocol 195

4.7.158 Compliance with Paragraph 182: Prohibition from Self-Investigation Of Use of Force by Supervisors 195

4.7.159 Compliance with Paragraph 183: APD and CPOA Investigations Thorough and Reach Reliable Conclusions 197

4.7.160 Compliance with Paragraph 184: Complaint Investigations Documented in Writing 198

4.7.161 Compliance with Paragraph 185: Officers Required to Cooperate with IAB/CPOA Investigations 199

4.7.162 Compliance with Paragraph 186: Protocols to Separate Administrative and Criminal Investigations 200

4.7.163 Compliance with Paragraph 187: Advisement of Fifth Amendment Rights for Officers 201

4.7.164 Compliance with Paragraph 188: Notification and Processing of Criminal Conduct by APD Officers 202

4.7.165 Compliance with Paragraph 189: Provision of Public Safety Statements 203

4.7.166 Compliance with Paragraph 190: Requirement to Consider all Relevant Evidence 204

4.7.167 Compliance with Paragraph 191: 90 Days to Complete Administrative Investigations 205

4.7.168 Compliance with Paragraph 192: Acceptable Case Dispositions 207

4.7.169 Compliance with Paragraph 193: Reopening Administrative Investigations 208

4.7.170 Compliance with Paragraph 194: Assessing Compliance with Training and Legal Standards 209

4.7.171 Compliance with Paragraph 195: Retaliation Prohibited 210

4.7.172 Compliance with Paragraph 196: Review of Anti-Retaliation Statements 210

4.7.173 Compliance with Paragraph 197: Retaliation Grounds for Discipline 211

4.7.174 Compliance with Paragraph 198: Staffing Levels at IAB and CPOA 212

4.7.175 Compliance with Paragraph 199: Initial Training Required for APD Internal Investigators 213

4.7.176 Compliance with Paragraph 200: Initial Training Required For CPOA Investigators 213

4.7.177 Compliance with Paragraph 201: Fact-based Discipline 214

4.7.178 Compliance with Paragraph 202: Disciplinary Matrix Required 215

4.7.179 Compliance with Paragraphs 203-211 Staffing Study 216

4.7.180 Compliance with Paragraph 212: Revision of EIS 217

4.7.181 Compliance with Paragraph 213: EIS Threshold Levels 217

4.7.182 Compliance with Paragraph 214: EIS Rolling Thresholds 218

4.7.183 Compliance with Paragraph 215: EIS Requirements 219

4.7.184 Compliance with Paragraph 216: EIS Protocols 220

4.7.185 Compliance with Paragraph 217: Retention Schedule for EIS Data 221

4.7.186 Compliance with Paragraph 218: Training Regarding EIS 221

4.7.187 Compliance with Paragraph 219: Updates and Revisions to EIS 222

4.7.188 Compliance with Paragraph 220: Use of On-Body Recording Devices 223

4.7.189 Compliance with Paragraph 221: Review of OBRD Procedures by DOJ and the Monitor 224

4.7.190 Compliance with Paragraph 222: Training on OBRD Use 225

4.7.191 Compliance with Paragraph 223: OBRD Testing Schedule 225

4.7.192 Compliance with Paragraph 224: Supervision of OBRD Use 226

4.7.193 Compliance with Paragraph 225: Review of OBRD Video 227

4.7.194 Compliance with Paragraph 226: Compliance with Laws and Regulations Regarding OBRD 227

4.7.195 Compliance with Paragraph 227: Storage of OBRD Video 228

4.7.196 Compliance with Paragraph 228: Reporting Reasons for Failing To Record via OBRD 228

4.7.197 Compliance with Paragraph 229: OBRD Video Used Only for Official Law Enforcement Duties 229

4.7.198 Compliance with Paragraph 230: Storage of OBRD Video 230

4.7.199 Compliance with Paragraph 231: OBRD Best Practices 230

4.7.200 Compliance with Paragraph 232: Strategic Recruitment Plan 231

4.7.201 Compliance with Paragraph 233: Recruitment Plan Goals and Objectives 232

4.7.202 Compliance with Paragraph 234: Recruitment Plan Strategies 232

4.7.203 Compliance with Paragraph 235: Consultation re Recruiting Process 233

4.7.204 Compliance with Paragraph 236: Recruit Selection 234

4.7.205 Compliance with Paragraph 237: Selection Processes Articulated 234

4.7.206 Compliance with Paragraph 238: Background Investigations for Recruits 235

4.7.207 Compliance with Paragraph 239: Background Investigations for Lateral Hires 236

4.7.208 Compliance with Paragraph 240: Annual Recruiting Reports 237

4.7.209 Compliance with Paragraph 241: Fair Promotion Practices 237

4.7.210 Compliance with Paragraph 242: Objective Criteria for Promotions 238

4.7.211 Compliance with Paragraph 243: Removal of Officers from Consideration for Promotion 238

4.7.212 Compliance with Paragraph 244: Performance-Based Evaluations 239

4.7.213 Compliance with Paragraph 245: Performance Evaluation Practices 240

4.7.214 Compliance with Paragraphs 246: Annual Performance Evaluations 240

4.7.215 Compliance with Paragraph 247: Access to Mental Health Resources 241

4.7.216 Compliance with Paragraph 248: Best Practices Mental Health 242

4.7.217 Compliance with Paragraph 249: Training in Officer Support Protocols 243

4.7.218 Compliance with Paragraph 250: Confidentiality of Counseling Services 243

4.7.219 Compliance with Paragraph 251: Involvement of Mental Health Professionals in Training Development 244

4.7.220 Compliance with Paragraph 252: Requirements for Mental Health Evaluation 245

4.7.221 Compliance with Paragraph 253: Cataloging Mental Health Services 245

4.7.222 Compliance with Paragraph 255: Congruence of Mission Statement 246

4.7.223 Compliance with Paragraph 256: APD Response to Staffing Plan 247

4.7.224 Compliance with Paragraph 257: Geographic Familiarity of Officers 247

4.7.225 Compliance with Paragraph 258: Officer Outreach Training 249

4.7.226 Compliance with Paragraph 259: Measuring Officer Outreach 249

4.7.227 Compliance with Paragraph 260: PIO Programs in Area Commands 250

4.7.228 Compliance with Paragraph 261: Community Outreach in Area Commands 251

4.7.229 Compliance with Paragraph 262: Community Outreach Meetings 252

4.7.230 Compliance with Paragraph 263: APD Attendance at Community Meetings 253

4.7.231 Compliance with Paragraph 264: Crime Statistics Dissemination 254

4.7.232 Compliance with Paragraph 265: Posting Monitor's Reports 254

4.7.233 Compliance with Paragraph 266: CPCs in Each Area Command 255

4.7.234 Compliance with Paragraph 267: Selection of Members of the CPCs 256

4.7.235 Compliance with Paragraph 268: Resourcing the CPCs 257

4.7.236 Compliance with Paragraph 269: APD-CPC Relationships 258

4.7.237 Compliance with Paragraph 270: CPC Annual Reports 259

4.7.238 Compliance with Paragraph 271: CPOA Implementation 260

4.7.239 Compliance with Paragraph 272: CPOA Independence 261

4.7.240 Compliance with Paragraph 273: Requirements for of CPOA Service 261

4.7.241 Assessing Compliance with Paragraph 274: CPOA Pre-Service Training 262

4.7.242 Compliance with Paragraph 275: On-Going Training for CPOA 263

4.7.243 Compliance with Paragraph 276: CPOA Ride-Along 264

4.7.244 Compliance with Paragraph 277: Resources for CPOA 264

4.7.245 Assessing Compliance with Paragraph 278: CPOA Budget and Authority 265

4.7.246 Assessing Compliance with Paragraph 279: Full-Time CPOA Investigative Staff 266

4.7.247 Assessing Compliance with Paragraph 280: Receipt and Review of Complaints by CPOA 267

4.7.248 Assessing Compliance with Paragraph 281: Prompt and Expeditious Investigation of Complaints 267

4.7.249 Compliance with Paragraph 282: CPOA Access to Files 268

4.7.250 Compliance with Paragraph 283: Access to premises by CPOA 269

4.7.251 Compliance with Paragraph 284: Assessing Compliance with Paragraph 284: Ensuring Confidentiality of Investigative Files 270

4.7.252 Assessing Compliance with Paragraph 285: Authority to Recommend Discipline 270

4.7.253 Assessing Compliance with Paragraph 286: Documenting Executive Director's Findings 271

4.7.254 Assessing Compliance with Paragraph 287: Opportunity to Appeal Findings 272

4.7.255 Assessing Compliance with Paragraph 288: CPOA Recommendations Regarding APD Policies 272

4.7.256 Assessing Compliance with Paragraph 289: Explanation for not Following CPOA Recommendations 273

4.7.257 Assessing Compliance with Paragraph 290: Regular Public Meetings 274

4.7.258 Assessing Compliance with Paragraph 291: Community Outreach for The CPOA 274

4.7.259 Assessing Compliance with Paragraph 292: Semi Annual Reports To Council 275

4.7.260 Assessing Compliance with Paragraph 320: Notification of Critical Firearms Discharges, in-Custody Death or Arrest of an Officer 276

5.0 Summary 288

## 1.0 INTRODUCTION

The following document constitutes the Independent Monitor's second report detailing the status of the monitoring function of the Albuquerque Police Department's (APD) response to the Court Approved Settlement Agreement (CASA) between the United States Department of Justice (DOJ) and the City of Albuquerque (the City). The document consists of five sections:

1. Introduction;
2. Executive Summary;
3. Findings Regarding Two- and Three-Month Submissions;
4. Compliance Assessments; and
5. Summary.

On November 14, 2014, the United States Department of Justice entered into a settlement agreement (SA) with the City regarding changes the Parties agreed to make in the management and operations of the APD. This agreement consisted of 280 requirements accruing to the APD, the City of Albuquerque, and related entities, including, for example, the City of Albuquerque's Citizens' Police Oversight Agency (CPOA), and the City of Albuquerque's Police Oversight Board (POB). On January 14, 2015, the Parties selected an independent monitor to oversee and evaluate the APD's response to the requirements of the CASA: Dr. James Ginger (CEO of Public Management Resources, and his team of policing subject matter experts (SMEs) in the areas of police use of force, police training, police supervision and management, internal affairs, police-community relations, crisis intervention, and special units were tasked with the responsibility of developing and implementing a monitoring methodology designed to, where possible, evaluate quantitatively each of the 277 individual requirements of the CASA. The monitoring team's proposed methodology was submitted to the parties (USDOJ, the City of Albuquerque the APD, and the Albuquerque Police Officers' Association) in March, 2015. The Parties were given time to review and comment on the draft, and the monitor made revisions to the methodology document that were meaningful and suggested an improved document in terms of accuracy, understandability, and style. A Court Order modifying deadlines for the CASA was approved by the Court and filed on September 24, 2015. This document reflects those comments and represents an attempt by the monitoring team to produce the most accurate assessment possible.

In the pages that follow, the monitoring team presents to the Court, the Parties and the residents of the City of Albuquerque, its findings developed from its second site visit. The monitor's second report, in effect, represents the beginning of the process that tracks changes to APD policy development, training operations, and related practices. This, the Second Report, begins the process of tracking progress. Full disclosure of all monitor's reports will be made by in-person discussions with the Parties, publication of the report on the Web, provision of hard-copy versions of the report in the Albuquerque City Public

Libraries, and provision of copies of the report on CDs for those who so desire. The reader is reminded that this document is a second step in a multi-year and multi-phase organizational development and planned change process. While the style of the report may be a bit technical, the reader should note that it is meant to inform the Court, applicable law enforcement professionals, and the Parties about the monitor's assessment of the current levels of performance by the APD on the 280 specific tasks required of the City and the APD over the coming years. The reader is reminded that this is literally the second step of a multi-year journey to ensure that the APD operates from and with policies, procedures and processes that are the nationally articulated standards for effective and Constitutional policing in America. The second report (and following reports) allows the reader to actually assess progress made by APD since the reform process was initiated in January, 2015. Thousands of man-hours have gone into the development of this report in the form of planning, data collection, data analysis, report writing, staffing and production. The second report serves as a review of the effectiveness of the organizational development process engaged in by the APD during the period of June-November 2015 (inclusive). Similar processes will be used over the remaining life of the CASA.

## 2.0 Executive Summary

The Albuquerque Police Department has entered into one of the most complex, far-reaching, and difficult processes known to American policing: a process of organizational development and planned change that, before it is complete, will affect the very core of the agency, changing the way APD functions, plans and thinks.

This is the second of at least nine monitor's reports. Under the Court-Approved Settlement Agreement (CASA), the monitor is to issue public reports on the City's progress over the next three years, by which point the City aims to have reached substantial and sustained compliance with all provisions of the CASA. This report covers the time period June 1, 2015 through November 30, 2015.

As this report discusses in detail, great challenges lie ahead for the Albuquerque Police Department and the City of Albuquerque, but there are many indications of APD's and the City's strong commitment to this effort. This executive summary provides an overview of what the monitoring team has observed so far in these very early stages, a more in-depth discussion of which can be found in the body of the report. The summary then provides an explanation of where we are in the process, given some modifications that the City and the Department of Justice recently requested the Court to make to deadlines in the CASA. Finally, the summary explains more about how this report is organized and where the reader can find more information about specific components of the CASA.

### 2.1 Overview of This Report's Conclusions

APD has demonstrated an initial commitment to reform. It has begun the process of revising policies, creating new tracking and accountability systems, and putting other critical components into place that will serve it well in the years to come. Nevertheless, a tremendous amount of work lies ahead, and this report necessarily reflects that reality. APD has taken only the first few steps down a very long road.

This summary covers the nine substantive areas laid out in the CASA:

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,

IX. Community Engagement and Oversight.

While each of these topics is covered in greater detail in the body of the report, this executive summary will provide an overview of our conclusions from the core components of the CASA.

### 2.1.1 Use of Force

As the monitoring team noted in its first report, issued in November, 2015, fostering the constitutional use of force is the primary goal of this entire effort, and every provision of the Court Approved Settlement Agreement (CASA) is aimed, directly or indirectly, at achieving that goal. Doing so will eventually involve an array of components, all working in unison: a strong, clear use of force policy that becomes the basis for training provided across the department; supervision focused on ensuring that officers follow the policy and training in the field; tracking systems that identify issues before critical problems arise; accountability systems that appropriately address issues when and where they arise; and community engagement that fosters collaboration between officers and the communities they serve.

APD is still developing all of these components. As of this reporting period, which ended November 30, 2015, the APD had not yet developed a use of force policy that was acceptable to the monitoring team or the United States Department of Justice. While the use of force policy is not due until March, 2016[1], the inability to craft an acceptable use of force policy during this reporting period is problematic on several levels. First, it highlights a general difficulty exhibited by the department in a critical area of management and oversight of the policing function: crafting of effective, meaningful, trainable policy to guide officers in the multiple functions and actions that must be coordinated to craft an effective policing process in the City of Albuquerque. Second, of necessity, it delays the start of required department-wide ***training*** related to the appropriate use of force. As a result, the process of developing, organizing, delivering and evaluating use of force training will be stressed, leaving little room for assessment of its effectiveness and revisions to training processes as it progresses. Similarly, training of supervisors in how to assess, evaluate and review officers' use of force will be similarly delayed. Third, it compresses the timeline to a point that any unanticipated issues will be difficult to acknowledge, assess and overcome

[1] Based on paragraph 143 of the CASA, "within nine months of the Effective Date [of the CASA], the policy and Procedures Review Board shall review, develop, and revise policies and procedures that are necessary to implement this Agreement.

before they create additional issues that must be resolved prior to completing planned training.

Despite these issues, training regarding use of force is scheduled to begin January 25, 2016. The monitoring team will observe, critique, and assess this training as it is delivered, and will provide information to the APD that will allow it to make mid-course corrections if necessary so that training regarding use of force and supervision of use of force can be accomplished effectively in the time available. The monitoring team considers this training to be a foundational piece of the planned change processes that will, eventually, allow APD to successfully comply with the requirements of the CASA.

### 2.1.2 Specialized Units

APD's tactical units—the SWAT unit, the canine unit, and the bomb squad—have taken significant steps toward incorporating the requirements of the CASA into their operations. These units are guided by some of the best policy yet developed at APD. They train on an on-going basis, and they have incorporated scenarios into their training that emphasize de-escalation techniques and the use of the minimum amount of force necessary to resolve an incident. In specific tactical operations, tactical units balance the number of tactical specialists deployed with crisis negotiators, which impressed the monitoring team because there is often asymmetry between these two critical components in other law enforcement agencies. These policy and training processes have resulted in fewer deaths and injuries attributed to actions of these specialized units over the last year or more.

Likely as a result of these improvements, APD saw commendable results from its latest tactical operations, many of which were resolved without any force being used. The monitoring team reviewed all major tactical operations that occurred during this reporting period. We found that incident commanders continue to exhibit great skill and control in the incidents we reviewed, fostering coordinated decision-making that contributed to the use of de-escalation techniques and to there being no need to use force.

### 2.1.3 Crisis Intervention

The CASA requires the City to establish a Mental Health Response Advisory Committee made up of various stakeholders in the mental health field. The Committee is designed to review policies, training, reports, and data on officers' interactions with individuals with mental illness and, based on those reviews, to provide guidance to APD on how it can improve those interactions.

A myriad of supporting processes combine to affect APD's ability to implement effective crisis intervention. The APD is in the formative stages of building coalitions (with activist groups, UNM, mental health professionals, and citizens)

to improve its responses to calls for service involving individuals in crisis. As with any multi-disciplinary, inter-agency activity, change is not easy, and results can take months or years to achieve. APD continues to "work" the process outlined by the monitoring team in its early interactions with the City, and the monitoring team expects to be able to report on tangible results in the coming months.

Related issues were noted during the site visit and reporting process for IMR-1, in that concerns were raised in the media relating to the provision of mental health training services available through the APD for persons in crisis, and training provided APD officers regarding responding to those in crisis. Upon the release of a City internal audit report concerning contracting for training in these two areas, questions arose surrounding the APD's training for officers and units tasked to respond to persons in crisis, the Crisis Intervention Unit [CIU] and the Crisis Outreach and Support Team [COAST]). Upon release of the audit report, which questioned the contracting methods for provision of those services and other issues surrounding training for COAST and CIU, the monitor met with concerned members of City Council to assess the potential issues raised by the audit report. The concern addressed by Council was that, due to potential problems with the contracting process, the quality of the training provided to members of CIU and COAST may have been compromised.

Based on those concerns, the monitor provided the City with four alternative responses to articulated concerns:

- First, do nothing (which the monitor described as potentially raising liability issues);
- Second, retrain all CIU and COAST officers using newly developed training and testing modalities (which the monitor described as costly, but "virtually guaranteed" to address the associated liability and service quality issues raised);
- Third, re-test all officers who received the "suspect" training and retrain any officer who failed; and
- Fourth, sample and re-test a statistically reliable number of the officers trained, and if that sample "fails," retrain all officers trained in earlier sessions.

Since this issue surfaced, the City has moved to new training sources for CIT and COAST personnel. The "issue" regarding validity of previous training has not been resolved. In conversations with concerned members of Council, the monitor made it known that he stood ready to assist in any way feasible with resolution of the issue. We will continue to track this issue carefully.

### 2.1.4 Policy and Training

The adoption of policies that comply with the CASA and comport with best practices will be the foundation of APD's reform. Until good policies are in place, little else can be accomplished. As is discussed below in the section of this

summary on where we are in the process, none of the deadlines for policies required by the CASA expired during the reporting period, so the monitor has made no findings of compliance or noncompliance with regard to policies. Several issues are inter-twined within the policy process at APD.

- First, all policies related to the CASA are due from the Policy and Procedures Review Board (PPRB) by March 2, 2016 (as per paragraph 143 of the CASA);

- Second, the monitoring team will use this as the "trigger date" for due dates associated with new or revised policy related to the CASA;

- Third, this process puts APD and the City in a position requiring a remarkably substantial process of development, writing, assessing, obtaining approval for, and training affected staff (both sworn and civilian) in the implementation of those policies;

- Fourth, the delays in successful policy development have created a policy "bubble" that was noted by that due date and will drastically over-tax all concerned parties, including the APD which must write, assess, and approve the policy for submission to the monitor and DOJ, and the monitoring staff and DOJ staff who must assess and approve or reject these policies.

Although no policies were due, APD did provide drafts of policies that it developed during and after the reporting period, and the monitoring team can offer some observations based on those drafts and on our assessment of APD's policy development systems. In short, the evidence is even more clear that the policy development processes at APD are in need of significant and immediate revision. Responsibilities for policy writing, dissemination, revision, and assessment of policies are disjointed and disorganized. APD has a Policy and Procedures Review Board (PPRB), as required by the CASA, but documentation of its activities does not indicate a high degree involvement of the PPRB in crafting and revising policies. Instead, the PPRB appears to be the body that "proofs" policy language. The monitor expressed several concerns re PPRB process in person to APD staff, and in the monitor's first report (see IMR-1 p 14, "the IMT has not seen clear input of PPRB work product. Given the status and quality of many of the draft policies received by the IMT over the past weeks, if the PPRB is actually assessing and actively critiquing and causing change in APD draft policy, it is not reflected in the polices reviewed by the monitoring team. The monitoring team has not seen any evidence, in the policies it has reviewed, of input from the PPRB.

In addition, APD has created a way for all officers to review and comment on proposed policies, again as required by the CASA, but it is not clear to the monitoring team how that system is being used. Clear evidence of any activity in this area, such as questions asked or suggestions made by line personnel

(and changes or responses provided the administration) would buttress the City's argument that this system is up, operational, and of some utility.

This may simply be a reflection of the fact that, as of the effective dates for this report (June 1-November 30, 2015) no critical APD policies had been re-written, reviewed and approved by the monitoring team and DOJ and "implemented" through training, supervision and discipline.

As is its custom, when the monitoring team encounters areas in which APD is having difficult, the monitor offered a "primer" to APD on the policy development process—as it had done in the past concerning training needs assessment, and training development processes. That offer was flatly refused by the City Attorney. As a result, the monitoring team will be reactive with this component of the CASA, as opposed to its usual practice of watching for areas of difficulty and offering assistance when it can. Issues related to policies are discussed fully in later sections of this report.

In terms of the policies that APD has drafted so far, they continue to be difficult to understand, poorly organized, and apparently written piecemeal, without an overarching understanding of the function of policy in guiding officer conduct and forming the basis for APD's training program. For example, the monitors continued to give failing marks to critical policy elements on their latest reviews this reporting period, finding fatal flaws in APD's policies covering use of force, internal affairs, supervision, and other areas. APD *did* submit, after the reporting period ended, an acceptable use of force policy; **however, successful completion of this policy required an unsustainable level of input, review, comment and revision by the monitoring team and the DOJ. The APD, as of this reporting period, continues to suffer near-fatal flaws in the way its policy component is organized, managed, assessed, and supported**. The monitoring team cannot over-emphasize the critical issues this continued failure in the area of policy development have presented, and will continue to present, as APD moves forward with its compliance efforts.

Because policy is the foundation of training, the deficiencies in APD's policy development must be worked out before APD's training program will be able to function properly. Any training developed and delivered absent a strong and resilient policy system is virtually guaranteed to fail to deliver a training product that maintains consistent performance reflective of organizational values and operational requirements. Time is running short to correct the deficiencies in policy development at APD. Training deadlines for the CASA are looming: June and December 2016. APD must correct its course on policy development soon, in order to ensure a solid foundation for training.

Another key component of developing training is a needs assessment, which must be done so that APD knows what its training program needs to include and how training should be delivered. The critical piece of that needs assessment process is good policy. APD has no routinized system for assessing its needs

with regard to training. In conjunction with the lack of effective policies, APD faces two fatal flaws in developing its training program, no matter how well intentioned or effectively managed that program is.

The monitoring team and command staff have discussed these issues and agreed that a brief hiatus in some training is appropriate, which will give APD time to perform a meaningful needs assessment and develop all of the necessary policies. Some training (such as use of force, use of On-Body Recording Devices (OBRD) and internal affairs processes) has therefore been put on hold pending development of an internal training planning process that is more likely to be successful than the one that existed at the time the monitoring team first began working with APD. Use of Force training is scheduled to begin in January, 2016. Members of the monitoring team will observe the training when it begins to ensure that adequate

APD has moved forward on some training requirements that do not require policies to be finalized beforehand. It has developed a schedule of training that incorporates all training required by the CASA, and it has briefed all officers on the CASA. Nearly all of these briefings involved command staff, representatives from the City's legal team, and representatives from the Department of Justice, giving officers an opportunity to learn about the CASA from the people who created it.

### 2.1.5 Internal Investigations and Adjudication

As noted in the monitor's first report: APD's "universe" related to internal investigations and adjudication is separated into three components: APD's Internal Affairs Division (IAD), the Citizen Police Oversight Agency (CPOA), and the Police Oversight Board (POB). Members of the monitoring team revisited these issues for the second report. Last reporting period, the monitoring team reported that CPOA had selected a new staff attorney and a new Executive Director. The new staff attorney has developed new policy guidance for CPOA, and the new Executive Director has begun the process of revising operational procedures and practices. The new Chair of the POB has begun the process of building his team, and appears to be headed in the right direction at the right pace.

### 2.1.6 Staffing, Management and Supervision

Issues related to APD staffing, management, and supervision continued to be "on hold" pending release of, and the City response to, a report by Alexander Weiss and Associates. Dr. Weiss was tasked with identifying the levels of staffing required for the APD to meet its requirements of delivering timely police services to the citizens of Albuquerque, and delivered his preliminary findings to the APD during the monitoring team's second site visit, executed during the first week of November, 2015. That report was released to the APD near the end of the second reporting period. Full written results of Dr. Weiss' work were made

available after the end of this reporting period. APD has begun the process of melding the recommendations of Dr. Weiss with the requirements of the CASA. In response to Dr. Weiss' report, the APD has reorganized and restructure. Those actions occurred after the end-date for this reporting period, and will be discussed in more detail in IMR-3.

### 2.1.7 Recruitment, Selection and Promotions

Many of the elements of APD's response to the requirements of the CASA related to recruitment and selection and promotions of officers are also policy intensive. Work continues on policies and procedures supporting these elements of APD personnel sub-systems, and when they have been finalized, the monitoring team will review them fully in a subsequent report. No substantive policy work product was submitted to the monitoring team for review regarding this topic for this reporting period (June, 2015 - November 2015).

### 2.1.8 Officer Assistance Programs

As noted in IMR-1, formative steps have been taken by APD to meet the requirements of this section of the CASA. In fact, many of the areas addressed here had already been addressed in one form or another by APD. As with the other parts of the APD management oversight system, the requirements stipulated in these sections of the CASA are not yet due. Many of the APD initiatives related to this section are pending development of the department's Early Intervention System, which is in-turn dependent upon implementation of IA-Pro and "blue team" software, develop of which is currently under way and not yet due.

### 2.1.9 Community Engagement and Oversight

The APD has reached out to the community via establishment of six "Community Policing Councils" (CPCs), one for each operational area command of APD's patrol structure. As noted in the last monitoring team report, the monitoring team found and documented some "growing pains" with the engagement and oversight component of the CASA. The team has advised APD that it may want to reach out for consultation with experienced community-involvement specialists who may be able to guide the department through the development of effective-use policies and practices for the established CPCs.

The CPC process has moved past the initial organizational stages, and is beginning to articulate a need for assistance in developing policy and process to effectuate its articulated purpose. An Annual Report for the CPCs is still pending.

## 2.2 Overview

The first monitor's report was issued more than a year after the CASA was signed by the City, APD, and the Department of Justice (DOJ). A number of

factors led to that delay. First, the City and DOJ endeavored to jointly select the monitor, a process that took longer than anticipated but far less time than if the parties had not been able to reach a consensus candidate and had to resolve the issue in court. Fortunately, the City and DOJ agreed on the candidate—Public Management Resources (PMR)—that was the top choice of an outside group, APD Forward, a broad-based coalition of nine community groups formed to advocate for reform of APD. After selecting PMR, however, funding issues caused further delays, and secure, predictable funding for this undertaking was obtained on May 21, 2015. The monitoring team—currently made up of the monitor, eight subject-matter experts, and a director of operations—made its first full site visit in June.

Due to the monitoring team's late start, conversations that should have been had early on were not had until relatively late in the initial stages of APD's planning and implementation, and some false starts were made. To its credit, APD attempted to forge ahead without substantial guidance and oversight from a fully funded monitoring team. While laudable, many of these early efforts were not in line with the standards later articulated by the monitoring team to the command staff of APD. Policies had to be revised, rewritten, and reassessed with the monitoring team's input and feedback. Training—which, as a matter of nation-wide practice, cannot begin until the policy that under-girds the training is written, evaluated, and approved—has been justifiably delayed, as discussed above. Officers cannot be held accountable for performance until they are trained in the implementation of the articulated policy. Supervisors cannot be held accountable for enforcing policy among their subordinates until policies are written and promulgated, and then officers trained on them.

As noted in the first executive summary of IMR-1, the City, DOJ, the Monitor, and the Albuquerque Police Officers' Association (APOA)—the labor union that represents APD officers—have also agreed on modifications to the CASA that will make implementation more orderly and the deadlines going forward more realistic. Under these modifications, deadlines for compliance will be based not on when the parties signed the CASA in November 2014—as the deadlines had originally been set—but instead on when United States District Court Judge Robert Brack (the judge presiding over this case) approved the CASA and made it court-enforceable on June 2, 2015. Judge Brack approved these modifications in September 2015, after hearing from the Parties that they supported this change.

As noted above, this report covers June through November 2015. Because of the deadline modifications made by the Parties and approved by the Court, only the two- and three-month deadlines of the CASA expired during this period, Nonetheless between June and November 2015, APD made progress in meeting the CASA's original deadlines, and this report discusses APD's efforts in reaching established deadlines under the CASA. It should be noted—and is noted repeatedly in the body of the report—that only the City's or APD's two- and three-month deadlines expired during the period covered by this report. As new

deadlines come due in the months and years to come, all requirements will be discussed in future monitor reports.

## 3.0 Compliance Assessments for Two- and Three-Month Deadlines

Based on the agreement of the Parties, and the approval of the Court, only those tasks with two- and three-month deadlines are "due" as of the writing of this report. The monitoring team's findings on these "due now" tasks are outlined below, with two-month tasks treated first, then three-month tasks. Six-month tasks are not yet due, as the established deadlines for six-month tasks do not accrue until December 2015.[1] Findings by the monitor on requirements that are evaluable are classified as either "Not in Compliance," "In Compliance," or "Not Yet Due."

***The reader is reminded that, of necessity, the monitor's reports are virtually always "behind the curve" in depicting actual performance timelines. This is due to the fact that it takes weeks for the monitoring team to collate the data it receives from APD and other sources; review it; draft a first report; "staff" the report with the parties; revise the report, when necessary; and prepare a copy for filing with the Court.***

Data collected by the monitor were of two types:

- Data collected by use of a random sampling process; or
- Selection of ***all*** available records of a given type or source for the "effective date" of the given report.

Under no circumstance were the data selected for the monitor's reports based on provision of records of preference by personnel from the City or APD. In every instance of selection of random samples, City personnel were provided lists of specific items, date ranges and other specific selection rules, or the samples were drawn on-site by monitoring staff.

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 or other personnel 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.

---

[1] At the request of the Parties, and with the support of the independent monitor, the Federal District Court for the District of New Mexico authorized a reset of the operational date for the six-month submissions to December, 2015.

**Secondary Compliance**: Secondary compliance is attained by implementing 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 (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 agency.

**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 as a whole, 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" the policies.

**Timelines**: Compliance determinations are discussed below for the tasks due at the CASA's two-, three-, and, in some cases six-month timelines. Although none of the six-month requirements are due until December, 2015, they are reported here as *some* of them are deemed currently in compliance by the monitoring team. The paragraphs of the CASA below are organized by "due date," with two month requirements reported first, followed by three-month requirements, and then six-month requirements to which the APD and the City have attained early compliance status.

### 3.1 Compliance with Two-Month Tasks

One task identified by the CASA is due within two-months of the operational date, requiring completion by August 14, 2015: Paragraph 149, which calls for all officers to be briefed on the terms of the CASA, including its goals and its implementation process. Compliance with this paragraph is discussed immediately below.

#### 3.1.1 Compliance with Paragraph 149, Briefing on CASA Requirements

Paragraph 149 requires:

**Within two months of the Effective 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

Based on normal daily course of business (COB) documents provided to the monitoring team, a series of presentations were made to all APD personnel consisting of a briefing of the requirements of the CASA and a depiction of the implementation plan established by APD to meet the required "briefing" process. There appears to be some question as to the coverage of one of the elements required by the CASA; however, given the number of elements in the CASA, even if that one element were omitted or not exactly what the CASA required, it constitutes much less than a 0.05 error. The monitoring team will continue to monitor progress on ***all*** training elements of the CASA.

### Results

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

Task 149 was the only two-month task identified in the CASA.

## 3.2 Compliance with Three-Month Tasks

Two tasks established by the CASA are due within three months of the operational date, requiring completion by September, 2015.

### 3.2.1 Compliance with Paragraph 141: Opportunity for Rank and File to Review and Comment on Policies

Paragraph 141 stipulates that:

> **Within three months of the Effective 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.**

### Methodology

APD has developed an application for PowerDMS that allows posting of all proposed policies, and has the ability to "mark up" those proposed policies in electronic format. The system, as designed, meets the requirements of this paragraph. As policy development progresses, the monitoring team will assess the APD's process for collecting and acting upon input received through this PDMS system.

### Result

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

### 3.2.2 Compliance with Paragraph 142: Implementation of the PPRB

Paragraph 142 stipulates that:

> **Within three months of the Effective 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).**

### Methodology

APD has published "Administrative Order 3-65 Policy and Procedures Review Board," which details the responsibilities of PPRB as of May 2012. The Department has also provided the monitor with agenda for the PPRB, all dated after or immediately before the monitoring team's first official site visit in June 2015. While it may not be required by APD policy and process, the monitoring team has not seen clear input of PPRB work product. Given the status and quality of many of the draft policies received by the monitoring team over the past weeks, if the PPRB is actually assessing and actively critiquing and causing change in APD draft policy, it is not reflected in the polices reviewed by the monitoring team. The monitoring team has not seen any evidence, in the policies it has reviewed, of input from the PPRB. This may be due to the fact that, it appears, the PPRB is ether-based, and its notes for change are reflected somewhere in PowerDMS, and not actually made to policies reviewed by the monitoring team. If that is the case, APD will need to make provisions to "port" that documentation over to the monitoring team, using an auditable date-based reporting method. A secondary "fix" is to require a PPRB "signature/approval page" on all new or revised APD policy submitted by and approved by the PPRB. Upon direct request, the APD has provided the monitoring team with daily course of business evidence of the work-product of the PPRB in the form of meeting agenda. The monitoring team observed, during the first site visit in June, 2015, a meeting of the PPRB, and found it to be concerned mainly with operational issues such as nomenclature, redundancies, and ensuring that policy actually reflects actual practice. The monitor found sparse evidence that the group screens for conformance to established pattern and practice in the field, or that it screens for compliance with the CASA. This is, perhaps, APD's greatest policy-related issue, although there are many. The monitor strongly suggests APD methodically analyze its policy process, and work diligently to bring all its policies (especially those related to the requirements of the CASA) into conformance to federal, state, local and case law. Until this occurs, the current (unacceptable) repetitive process requiring hundreds of external man-hours of monitoring team and DOJ review, comment and revision prior to forging acceptable policy, will, of necessity, continue. The longer this unsustainable process is required to craft acceptable policy, the more serious will be the delay to effective APD

implementation of the requirement of the CASA, and the longer will be the delay in compliance attainment.

**Secondary and Operational compliance remains pending until evidence exists that the PPRB personnel have been trained in their role as members of the board and that PPRB is part of a process that routinely (i.e., 95 percent of the time) assists in producing policies that are approvable by the monitoring team.**

### Results

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

## 3.3 Paragraph 149: Compliance with Six-Month Tasks[2]

Eight Tasks identified in the CASA accruing to the City and APD had six-month deadlines. Compliance with those tasks is discussed below.

### 3.3.1 Paragraph 151: Itemized Training Schedule

Paragraph 151 stipulates that:

> **Unless otherwise noted, the training required under this Agreement shall be delivered within 18 months of the Effective Date, and annually thereafter. Within six months of the Effective Date, APD shall set out a schedule for delivering all training required by this Agreement (emphasis added).**

### Methodology

The monitoring team reviewed the APD's "class schedule" for training development and found all training elements required by the CASA to be reflected in that document, which lists, for each training development cycle, the "task lead," the date of the last CASA paragraph update related to each training element, a narrative of the title and status of the training element, the time development started, elapsed time for development, and finish date. The monitoring team will conduct "real time" audits of these training events over the coming years to ensure that training is not only completed to national standards but is completed on-time. The APD is currently in compliance with time parameters for setting out a schedule for training, as required by this task. Completion of the APD's 18-month training calendar on a task-by-task basis is currently "pending."

### Results

[2] While none of the six-month tasks are due this reporting period (they accrue on December 2, 2016) they are treated here as a "marker" for what the monitoring team will be concentrating on in the next monitor's report.

**Setting out A Schedule**

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

**Delivery of Training**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

**Compliance with 3.3.2 Paragraphs 164-168: Awareness Program by APD and CPOA**

Paragraphs 164-168 stipulate:

> **164. Within six months of the Effective 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. The requirements below shall be incorporated into this program.**
>
> **165. 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. ~~The various paragraph require the following actions of APD and CPOA.~~**
>
> **166. 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.**

**167. 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.**

**168. Complaint forms and related informational materials shall be made available and posted in English and Spanish.**

## Methodology

Members of the monitoring team requested policy documents related to the above requirements for their review and comment. During the first monitoring period, these documents were "under development." Since that time, the monitoring team has received and reviewed CPOA policies and found them to be appropriately designed to ensure the required outputs stipulated in paragraphs 164-168. While on-site for their first monitoring team visit to Albuquerque, members of the monitoring team assessed compliance levels related to these elements of the CASA. The team found that, as of the June, 2015 site visit, the City had made substantial progress in coming "on-line" with these outreach and informational aspects of the civilian compliant process. While "not yet due," the team continued to note, for example, community outreach through advertisements, posters and placards describing the civilian compliant process, and the existence of complaint forms and other informational materials in English and Spanish (as well as other languages). The required websites were up and operational. Training regarding officer's required responses had been scheduled, but outside the operative timelines established.

~~During the second monitoring period, the City and CPOA made sufficient progress to bring paragraphs~~

## Results

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

## 3.3.3 Compliance with Paragraph 169 Complaint Intake, Classification and Tracking

## Paragraph 169 stipulates:

**Within six months of the Effective Date, APD shall train all personnel in handling civilian complaint intake.**

**Methodology**

Members of the monitoring team were provided a spreadsheet, generated by the APD's PowerDMS intra-agency training platform. The document provided by the system indicates that the APD trained its personnel regarding complaint intake, classification and tracking during the time period of February through June, 2015. Data indicate that the agency trained 94.8 percent of its sworn and civilian workforce, with the remainder, those not trained, being shown on various forms of temporary duty, injury leave, military leave, FMLA leave, etc. The 94.8 percent "rounds up" to a .95 compliance rate. The monitoring team, however, has expressed some concerns to APD about several issues which are currently being researched and responded to:

- The first of these involves those full-time employees who were on leave and not tested in April and May of 2015. The monitoring team needs to know if any of those have returned to work, and how many of *those* have taken the intake training and have been tested;
- The second issue involves a lack of test data demonstrating employee mastery of the data produced and reviewed through Power DMS (test dates, data test questions, and test scores are currently not available to the monitoring team);
- The third involves a probable data management error that showed some participants *finishing* the training process *before* they were shown to have started.

In conversations with APD personnel in prefatory phases of the monitoring process, the monitoring team was informed verbally that testing outcomes, use data (how much time was spent per page of DMS product, etc.) would be available by participant. The monitor will review those data as they come available. During the second monitoring period, no training directly applicable to the CASA was provided by APD, thus this requirement was not monitored this period.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 3.3.4 Compliance with Paragraph 176: Centralized Numbering System for IAB and CPOA Complaints

Paragraph 176 stipulates:

**Within six months of the Effective Date, the Internal Affairs Bureau, 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 Bureau 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.**

## Methodology

The monitoring team has been provided "screen shots" of data entry in inquiry screens from the APD/CPOA data management systems that show "sequencing" numbers for complaints received at APD. Policies to support this data system, and that allow APD, CPOA and the monitoring team to assess the "shall be provided to the complainant" portion of this requirement are as of this date, pending. The lack of policy and procedure on a point this critical to the CASA is a significant issue.

## Results

Primary: **Not Yet Due** (Due date is December 2, 2016)
Secondary: **Not Yet Due** (Due date is December 2, 2016)
Operational: **Not Yet Due** (Due date is December 2, 2016)

### 3.3.5 Compliance with Paragraph 196: Anti Retaliation Policy

Paragraph 196 stipulates:

**Within six months of the Effective Date, and annually thereafter, the Internal Affairs Bureau 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.**

## Methodology

Data "in the record" at APD and the CPOA indicate that the agencies have revised their policies to reflect the required changes and has conducted an internal audit to find allegations of retaliation and to assess the efficacy of the internal investigations of those allegations. The monitoring team has reviewed the APD's results, and find them to be, from the record, fair, impartial, and fact-based. The monitoring team will continue to monitor this facet of the CASA as the monitoring process continues over the years.

## Results

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

### 3.3.6 Compliance with Paragraph 220: Use of On-Body Recording Devices (OBRD)

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 Effective 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.**

### Methodology

During the first monitoring period, the monitoring team has reviewed 16 use of force incidents reported to APD that should have contained, by existing policy, video taken using officer OBRDs. That review indicated that, as with any new system, not all incidents required to be recorded were actually recorded, and that *locating and retrieving* data that was recorded was still a developing art at APD. The monitoring team's request for video from the 16 incidents resulted in two submissions: one containing a few OBRD videos and a second containing many more, a few

weeks later. Obviously, the team has not been able to conclude its substantive review of these recordings at this time; however, it is clear the OBRD data are being maintained, indexed and are accessible. The monitoring team has yet to review policies and/or training associated with all eight of the above requirements at this time. This will be addressed in a full monitor's report at a later date. Obviously, a system that can support full administrative review of only two of sixteen selected cases is not fully capable of meeting the requirements of this paragraph of the CASA. Complete functionality relative to this paragraph is not due until December 2, 2016.

**Results**

Primary: **Not Yet Due** (Due date is December 2, 2016)
Secondary: **Not Yet Due** (Due date is December 2, 2016)
Operational: **Not Yet Due** (Due date is December 2, 2016)

### 3.3.7 Compliance with Paragraph 243: Prohibition from Participating in Promotional Exams

Paragraph 243 stipulates:

**Within six months of the Effective 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.**

**Methodology**

The monitoring team has reviewed COB documents that indicate that as far back as 2012 APD had and was enforcing such a policy during its promotional testing processes, and that since 2001 similar policies had been in effect. Further, despite the fact that no current formal policy documentation was evident requiring same, APD as late as 2014 appeared to be implementing a similar policy. Status on this requirement is not approved until the apparently **pending** "re-fresh" of APD's latest policy documents on this topic. Such action was submitted for approval in 2014, and was slated for completion, based on APD records, in May 2015. Unfortunately, the record available to the monitoring team at this time indicates that no such action has occurred. This continues to inform the nature and status of APDs policy production process, which, as of the second monitor's report, does not meet nationally accepted standards and practices.

**Results**

Primary: **Not Yet Due** (Due date is December 2, 2016)
Secondary: **Not Yet Due** (Due date is December 2, 2016)

Operational: **Not Yet Due** (Due date is December 2, 2016)

### 3.3.8 Compliance with Paragraph 259: Measurement of Officer Outreach

Paragraph 259 stipulates:

**Within six months of the Effective 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

The monitoring team has reviewed COB documents that indicate that APD is ***active*** in the area of officer outreach, but as of this date the department has generated few if any ***metrics*** on this activity. At a minimum, one would expect an analysis of the number of hours spent and the number of citizens contacted. Ideally, measurement would include "problems identified," "problem addressed (and how), and "problems solved or prevented." Until such time as the APD identifies how it plans to measure and report this activity, the monitoring team cannot assess it. This constitutes another area of APD operations requiring strong policy guidance.

### Results

Primary: **Not Yet Due** (Due date is December 2, 2016)
Secondary: **Not Yet Due** (Due date is December 2, 2016)
Operational: **Not Yet Due** (Due date is December 2, 2016)

### 3.4 Summary

The City and APD have eighteen policy areas in which the Settlement Agreement allowed six months (or less) for them to achieve compliance. As of this date, the monitoring team have received COB data for ten of these areas. The remaining eight are not yet due. Of the ten reviewed items due as of the "six-month" or less deadline, the City and APD are currently considered in compliance with **five** paragraphs and the remaining five have work pending. The monitor has accepted without need for further documentation the APD's work in paragraphs 141, 142, 149, 151, and 196, as constituting primary compliance with the requirements of the CASA. All remaining paragraphs are considered "pending" further documentation by APD as articulated in the individual paragraph's narrative in this document. **A compliance rate of three of three requirements, due as of the first reporting period (June-November, 2015) constitutes an active compliance rate of 100 percent. Only a bit more than a quarter of all tasks due within six months (December, 2015) are judged to be fully "in compliance" at this time,** although these tasks are not yet due. Of the paragraphs due at the time of development

of this report, i.e., all two- and three-month due sections of the CASA have been met successfully by the City and APD.

The monitoring team, again, strongly suggests that all pending tasks related to **policy development and promulgation** on high-risk critical tasks (use of force, internal affairs, pursuits, tactical deployments, handling persons in crisis, domestic violence, deployment and operation of On-Body Recording Devices (OBRD), and supervisory processes) be a priority of the APD in the coming weeks.

## 4.0 CURRENT STATUS

As part of the monitoring team's normal course of business, it established a base-line assessment of ***all*** paragraphs of the CASA for the Independent Monitor's first report, (IMR-1). This was an attempt to provide the Parties with a snapshot of existing compliance levels and, more importantly, to provide the Parties with identification of issues confronting compliance as the APD continues to work toward full compliance. As such, the baseline analysis is considered critical to future performance in the APD's reform effort as it gives a clear depiction of the issues standing between the APD and full compliance. This report, IMR-2, provides a similar assessment, and establishes a picture of progress on APD goals and objectives since the last report.

### *4.1 Overall Status Assessment*

As can be expected with a project that has experienced significant start-up issues, e.g., delayed funding of the monitoring team, resulting in an inability of the monitoring team to be "on-the-ground" early in the process, and thus not able to participate with APD early on identifying key "pressure points" of organizational development and planned change and resulting in a minor delay in provision of defined methodologies for measurement of compliance, the APD has gotten off to a problematic start in building compliance systems. As an effect of this late start, compliance efforts have been less effective than they might have been.

### 4.2 *Dates of Project Deliverables*

Project deliverables are defined by the Agreement governing the parties' response to the CASA, (DOJ, the City of Albuquerque, the Albuquerque Police Department, and the Albuquerque Police Officers' Association (APOA).

### *4.3 Format for Compliance Assessment*

The Monitor's Reports are organized to be congruent with the structure of the Agreement, and specifically reports, in each section, on the City's and APD's compliance levels for each of the 280 individual requirements of the CASA.

For example, the monitor's reports will be 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 Programs;

IX. Community Engagement and Oversight;

All future monitor's reports will 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 *Compliance Assessment Processes*

#### 4.4.1 Structure of the Task Assessment Process

Members of the monitoring team have collected data concerning the APD's compliance levels in a number of ways: through on-site observation, review, and data retrieval; through off-site review of more complex items, such as policies, procedures, testing results, etc.; 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 Agreement, those data were ***never*** used as a sole source of determination of compliance, but were instead used by the monitoring team as explanation or clarification of process. All data collected by the monitoring team were one of two types:

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

Under no circumstances were the data selected by the monitoring team based on provision of records of preference by personnel from the City of APD. In every instance of selection of random samples, APD personnel were provided lists of specific items, date ranges, and other specific selection rules, or the samples were drawn on-site by the monitor or his staff.

Data requested for the Monitor's second report were selected by October 30, 2015, allowing time for APD to identify, collect and respond to the data request, and to allow members of the monitoring team ample time to sort,

organize, assess and evaluate the data provided, prior to writing this first report. The same process will be adhered to for all following reports until the final report is written.

### 4.5 *Operational Definition of Compliance*

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

- **Primary Compliance**: Primary compliance is the "policy" part of compliance. To attain primary compliance, APD must have in place operational policies and procedures designed to guide officers, supervisors and managers in the performance of the tasks outlined in the CASA. As a matter of course, the policies must be reflective of the requirements of the CASA; must comply with national standards for effective policing policy; and must demonstrate trainable and evaluable policy components.

- **Secondary Compliance**: Secondary compliance is attained by implementing 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 (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 agency.

- **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 as a whole, e.g., line personnel are routinely held accountable for compliance, not by the monitoring staff, but by their sergeants, and their lieutenants and command staff routinely hold sergeants accountable for compliance. In other words, the APD "owns" the policies.

As is true, in the monitor's experience, with all of these complex organizational change projects, change is never simple or quick. A great deal of work lies ahead. The APD's command staff is committed to effective change, and, working with the monitoring team, change will indeed come—and will be documented and reported impartially in this and the monitor's reports that will follow. The monitoring team is committed to assisting APD command staff by working closely with the APD in forging new, and revising old policies,

articulating clear guidelines and practices for APD's intensive training of the department's supervisors and managers, assisting APD in building assessment tools designed to identify problematic behaviors, and advising on "best practices" that can be adapted by APD as it moves forward in its efforts to meet the individual and global requirements of the CASA.

### 4.6 Operational Assessment

The following sections of the Monitor's Second Report articulate processes and findings related to each of the 280[1] active elements of the CASA.

The APD and the City have agreed to comply with each of the articulated elements. The monitoring team has 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. The revised document is included as Appendix One, below. 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. 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 second reporting period, using the *Monitor's Manual*, included as Appendix A, in the monitor's first report. The manual identifies each task required by the CASA and stipulates the methodology used to assess compliance.

### 4.7 *Assessing Compliance with Individual Tasks*

The monitoring team has assessed in detail the APD's compliance efforts for each articulated task that is "due" as of the dates of the reporting period, i.e., July 1, 2015-November 30, 2015. Each of the requirements of the CASA is discussed relative to its compliance level noted by the monitoring team in the paragraphs the follow.

#### 4.7.1 Assessing Compliance with Paragraph 14[2,3]

---

[1] Tasks accruing to the United States or the Monitor were not included in this methodology, as the monitor sees his role as evaluating APD and the City entities supportive of APD in meeting its responsibilities under the CASA.

[2] Paragraph 11 is not evaluated as it is a policy statement noting the City's intent to "eliminate the Repeat Offender Project within three months. This action was taken within the time frame allowed.

[3] Paragraph 13 is not evaluated, as it is a policy statement, intended to introduce the operational paragraphs that follow concerning use of force.

Paragraph 14 of the CASA stipulates the requirements for officers' use of force, stating:

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

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

As the monitoring team noted in its first assessment report on the APD's compliance efforts: "Acceptable performance for this paragraph requires, first and foremost, a new APD use of force policy that meets national standards and the requirement of the CASA". During the first reporting period, pursuant to the above CASA requirements, APD submitted for review a new use of force policy--Procedural Order 2-52 Use of Force (dated 12-4-14)-- to the DOJ and the monitoring team. The results of the monitoring team's reviews of the proposed policy were communicated to APD in both writing and during a June (2015) meeting, after reconciliation of the DOJ and monitoring team reviews. The draft was returned for major re-work: ranging from improved organization; greater clarity; elimination of redundancies; and full, clear explication of the more restrictive use of force standard required by the CASA.

Based on that initial interaction with APD and its policy development processes, the monitoring team expressed verbally several areas of concern to the APD and City officials. They included:

1. Assignment of policy drafting responsibilities to two APD operations majors, both of whom had significant operational responsibilities and few "policy" resources, (for example technical writers, specific training in policy development, etc.). The majors displayed a deep commitment to the task assigned, and gave exceptional effort to completing it at a high level.

2. The policy development process engaged in by APD for the Use of Force policy bypassed what would be expected of a functioning policy development process, and appeared to lack a formal, planned and organized process (lacking evidence of "tasking," research and analysis, planning, and executive review and feedback to the authors).

3. Organization of the CASA-related work was, by all appearances, disjointed and improperly sequenced. Logically, the formulation of state-of-the-art policies should precede the translation of those policies into training content. APD had organized much of the work in parallel, even though the one (training) is ***highly dependent*** upon completion of the other (policy). That led to both inefficiencies and serious disconnects (e.g., the failure to align related policies) in a flawed process. The monitor issued guidance to the APD on December 11, 2015 that established a formal sequence of work, starting with SOP 2-52 and continuing through other CASA policy requirements, before shifting the priority to training development.

This problematic ***design*** of the policy development ***process*** led to the need for multiple drafts of policy—all of which displayed the same problematic issues: failure to involve the training SMEs early on, so that delivered policy emerges that is ***responsive to national standards;*** failure to engage trainers in the dialogue of policy development so that the final policy product is ***trainable;*** and failure to align related policies with the keystone policy on use of force, so that policy is ***congruent.***

Pursuant to the monitor's return of the initial document, APD completed a second draft of the policy dated July 2, 2015 and submitted it to the monitoring team on September 2, 2015 (which was outside the time parameters for the first monitor's report effective dates). This did not allow sufficient time for the monitoring team to evaluate the second draft for the first reporting period.

During the second monitoring period, the monitoring team conducted a review of the second version of the APD's use of force policy and found that APD has made numerous improvements to the proposed use of force policy in an attempt to bring the draft closer to compliance.

Based upon a careful review of the second major draft, the monitoring team advised APD that the policy required further refinement and several enhancements. Between May and November, 2015, the monitoring team's use of force subject matter experts (SMEs) provided a great deal of technical assistance to the APD regarding development of an effective and approvable Use of Force policy, including 32 man-hours of in-person assistance during the team's June site visit. The following month the monitoring team worked intensely with the APD's use of force SMEs, reducing to writing outstanding issues that needed to be addressed to move the use of force policy forward. In mid-July, the monitoring team's use of force SMEs provided to the APD's force SMEs a detailed report, followed up with telephone conferences, detailing a "way forward" toward an acceptable use of force policy.

As of the middle of November, a third draft of a proposed use of force policy was submitted to the monitoring team and DOJ. Again, the monitoring team and the DOJ concurred that this version of the policy fell short of the requirements of the CASA. Thus, for this monitor's report, the City still had no workable Use of Force policy.

According to the requirements of the CASA, a workable use of force policy is due by December 2, 2015. This time period is outside the dates covered by the monitor's second report. The monitor has classified APD efforts in this area as "not yet due" for the primary phase of developing a responsive Use of Force policy. Secondary compliance, which first requires primary compliance, is also classified similarly. The same holds true for Operational compliance.

Parenthetically, the monitoring team received a fourth draft of the APD's proposed use of force policy on December 18, 2015. As this report is written, DOJ and monitor's reviews have been incorporated into what the Parties agree is a major step forward toward a workable use of force policy; however, the submission date is both outside the time period for this report ***and*** outside the CASA established due date for the use of force policy. Neither the monitoring team nor DOJ has yet formally approved the latest policy. Similarly, supporting policies for the APD's use of force policy (a policy on Electronic Control Weapons, a policy on uses of force requiring supervisory investigation, and an "Appendix" to the use of force policy) have not been approved by the monitor, pending substantial re-writes by the APD based on DOJ's and the monitoring team's review of these submissions. Thus, while the monitor, per se, has approved the APD's use of force policy, its supporting policies have not been approved and are being re-written. As of the date of preparation of this report, APD has not yet been able to develop, and submit for consideration, a suite of use-of-force-related policies that meet nationally established standards and the requirements of the CASA.

Given the fact that all use-of-force training outlined as a deliverable of the CASA are absolutely dependent upon development of an acceptable use of

force policy, the City continues to fall behind on these critical requirements. While technically, a workable use of force policy is not required until December 2, 2015 (a date outside the operational requirements for the second reporting period) the monitoring team are deeply concerned about the impact this failure will have on the APD's ability to adequately train its officers regarding the requirements of ***effective policy*** in a timely manner. Currently, training in use of force is scheduled to begin January 25, 2016. It will take many months to train all officers to the new policy. The monitoring team will observe and comment on this training as it progresses.

In the meantime, APD officers continue to encounter situations that require the use of force. They encounter these situations absent clear, monitor-approved policy guidance from the agency.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 15 of the CASA 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

Members of the monitoring team reviewed multiple copies of APD proposed Use of Force Policies, and subjected them to best established pattern and practice in the field, and to the requirements stipulated in the CASA.

### Results

As of the deadline for preparation of this report, existing APD policy fails to provide the foundation for effective training and supervision of use of force by APD officers (see paragraph 4.7.1, above). Further, the proposed new policy was inconsistent with best practices in the field, and did not serve as an effective base for requiring actions in the field consistent with the CASA. The

deadline for development of this policy was December 2, 2015, which is outside the "due date" for submissions to be considered for this report.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

#### Methodology

Members of the monitoring team have carefully reviewed the first and second versions of the Use of Force policy provided by APD, and have scanned the later versions, submitted to the team in November, too late to be included in a comprehensive review of the policy and its implications. The following results and conclusions have been gleaned from those two policy reviews.

#### Results

The first policy was deemed inadequate, and returned to APD with comments suggesting a full-rewrite of the document. Unfortunately, the APD's rewrite of the second policy was not submitted, as required by paragraph 147, to DOJ for review. Thus, the monitoring team would not accept the second policy draft until it has been submitted to DOJ as required by the CASA. This communication failure was repeated by the city on numerous other policy products by the APD that were due by the first monitoring report. The error has since been remedied (by transmission to DOJ of all new CASA-related policies), and the monitor will comment on those policies once DOJ has been given ample time to review them.

The monitoring team has provided in-depth feedback to APD staff on the new separate order on Electronic Control Weapons (ECW), which, again, was completed too late to be included in the Team's current evaluation of use of force issues. The monitoring team also reviewed with the Parties the question of how best to handle policy and procedures on individual tools, including standardized subject headings, and shared its conclusions with the APD SMEs and command staff. Completed policies related to use of force and related weapons is not due until December 2, 2015, a date outside the timeframe for

this report.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.4 Assessing Compliance with Paragraph 17: Weapons Modifications

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.**

APD issued SOP 2-22 Firearms and Ammunition Authorization (December 11, 2014) that provides detailed provisions that comply with CASA Paragraphs 17-21, with one exception. The 2014 policy replaced the previous one (December 11, 2014), but there is an undated policy ("xx/xx/xx") that appears identical except for highlighted provisions that corresponds to CASA paragraphs. The latter version consists of only the first page of the policy and is covered by an internal APD memorandum, dated August 24, 2015, that appears to have moved through various levels of the organization. We assume that this is the most current version, though it is still unclear if has been officially enacted for monitoring purposes. It is also important to note that the December 14, 2005, version of the policy is still posted on the APD web site. These various versions of 2-22 being available is confusing and could create opportunities for officers to rely upon an incorrect version of the policy.

The conversion to department-approved firearms was first announced in Special Order 14-32 (May 5, 2014). A follow-up Special Order, 15-09 (January 26, 2015) established a schedule for a handgun transition course, including both day and night qualifications. Specifically, the policy requires that officers qualify with and carry only approved firearms---including handguns, shotguns, and rifles---and expressly prohibits the use of any personal, unapproved firearm. Section 2-22-B-2 sets forth requirements for carrying a patrol rifle on duty, which includes approvals from the officer's immediate supervisor, internal affairs, and range staff. There is an application form and a formal evaluation process, including a review of complaints and risk involvements, before approval is granted.

#### Results

The monitoring team reviewed APD Procedural Order 2-22. The policy, posted by APD, fails to meet the provisions of this paragraph. Specifically, 2-22 states, "No department-owned firearm will be subjected to any alteration without the written permission of the Department Armorer." That language

fails to meet the requirements of the Paragraph. The monitoring team has continued to work with APD to complete Procedural Order 2-52 Use of Force and an Appendix to that policy that will include training and certification requirements required by this Paragraph. The institution of that policy will be reported on during the next monitoring period.

The monitoring team reviewed a Course of Business (COB) document, specifically a December 3, 2015, memorandum entitled "2015 Firearm Transition and Qualification Results." Although this memorandum was authored outside the monitoring period, it was available to the monitoring team, and the contents concern APD's continuing effort to transition the entire department to APD authorized weapons. Some of those efforts occurred during the second monitoring period. The memorandum documents that except for thirteen (13) members of the department, who are on different types of administrative leave, all sworn personnel have completed the transition training. The monitoring team considers that number of unqualified personnel to be within established compliance requirements, however, the memorandum provides no other information, including processes or methods to flag those officers, from a training perspective, once the officers return to work. There is also no indication of command notifications being distributed to alert them those remaining officers must receive the required training once they return from authorized duty leave.

Finally, during the November 2015 visit members of the monitoring team visited APD's range and had the opportunity to observe part of a recruit firearm qualification session. The monitoring team met and spoke with the range master and discussed various topics surrounding firearms training. The number of instructors observed in that particular session was appropriate to provide APD with the opportunity to properly remediate any qualification needs. The range master was knowledgeable and professional in his interactions with the monitoring team.

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

### Methodology

From a policy standpoint, during the IMR-1 reporting period the monitoring team found that the language contained within Procedural Order 2-22 met the

requirements of Paragraph 18.

### Results

APD is in Primary Compliance with this Paragraph; however, they should move immediately to resolve multiple iterations of the policy that are found in either draft or active status and ensure that public web sites present the most up to date version of policies.

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

### 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.**

### Methodology

The monitoring team reviewed a Course of Business (COB) document, specifically a December 3, 2015, memorandum entitled "2015 Firearm Transition and Qualification Results." Although this memorandum was authored outside the monitoring period, it was available to the monitoring team and the contents concern APD's continuing effort to transition the entire department to APD authorized weapons. Some of those efforts occurred during the second monitoring period. The memorandum reports that except for thirteen (13) members of the department, who are on different types of authorized administrative leave, all sworn personnel have completed the transition training. The monitoring team considers that number of unqualified personnel to be trivial, however, the memorandum provides no other information, including processes or methods to flag those officers, from a training perspective, once the officers return to work. There is also no indication of command notifications being distributed to alert them those remaining officers must receive the required training once they return from authorized duty leave.

### Results

Paragraph 19, sub-section c) requires APD to develop a protocol to "track and control the inventory and issuance of handguns." The Department has advised that this responsibility has been assigned to the Property Division,

which is currently developing a new computerized inventory system to handle these tasks. APD has, however, met the provisions of sub-sections a) and b); refer to the following section on Paragraph 20 for further information. During the next site visit APD will be asked to provide evidence of codified protocols to track and control handgun inventories.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

#### Methodology

The monitoring team reviewed a Course of Business (COB) document, specifically a December 3, 2015, memorandum entitled "2015 Firearm Transition and Qualification Results." Although this memorandum was authored outside the monitoring period, it was available to the monitoring team and the contents concern APD's continuing effort to transition the entire department to APD authorized weapons. Some of those efforts occurred during the second monitoring period. The memorandum reports that except for thirteen (13) members of the department, who are on different types of authorized administrative leave, all sworn personnel have completed the transition training.

The monitoring team also reviewed an Excel spreadsheet---2015 APD Alphabetical Qualifications---that verified firearms qualifications of all APD officers for both day and night shoots. Many officers in fact qualified with other than department-owned weapons because qualifications took place throughout the year, and replacement firearms were not yet available in some cases. Accordingly, the monitoring team will review COB records documenting qualification solely with Department-owned firearms during the next reporting period.

#### Results

The monitoring team reviewed APD Procedural Order 2-22 Firearms and Ammunition, dated December 11, 2014. The monitoring team observed that within section 2-22-3A1, as well as 2-22-3 E & F, APD has included sufficient policy requirements to meet the elements of this Paragraph. Section 2-22-F Qualification Failures provides detailed procedures for handling cases in which an officer fails to qualify during a scheduled firearms qualification. The procedures require that officers who fail to qualify "...shall begin an immediate remedial training program" that "...shall be completed within 7 range business days of the original qualification." An officer is not placed in an administrative assignment at the range until he or she experiences a second failure after remedial training. (This "second failure" seems different than multiple qualification attempts that might be allowed during a scheduled shoot.) Although this arrangement appears timely given a range of considerations, it still creates a seven-day period of risk exposure by leaving an officer in a full-duty assignment. With respect to other weapons---patrol rifle, buckshot shotgun, and enhanced shotgun---it is not entirely clear when an officer loses authorization to carry one of those firearms. The policy mentions a second failure as the threshold, but it is unclear whether loss occurs before or after the seven-day remediation period. Unlike with a handgun, immediate loss of the privilege is plausible and certainly sound from a risk management standpoint. The Department could also, and may already do so, allow a second attempt at qualification during the scheduled range qualification. The monitoring team will clarify these procedures during the next reporting period.

The monitoring team also reviewed a copy of an APD form titled Remedial Training Log, which is used by the Firearms Training Unit to document remediation of officers who fail to qualify. The entries reflect a careful assessment of shooting deficiencies, a recommended course of corrective action, and the results of follow-up, in this case a successful qualification. The instructor, notwithstanding qualification, instructed the officer to return to the range once a week, if possible, for further one-on-one training. Further improvements were noted when the officer returned to the range for a follow-up session. The Firearms Training Unit should be commended for its diligence in dealing with qualification failures in such an in-depth, risk-smart fashion.

APD needs to reconcile various iterations of Procedural Order 2-22 that exist in different locations and are accessible to APD officers.

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

### 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

The monitoring team reviewed Section Procedural Order 2-52-D.1.b. Pre-Deployment Considerations and determined that it explained reasonably well the tradeoff between drawing a firearm quickly in anticipation of a significant threat, or not doing so, and thereby "keeping your tactical options open". Importantly, the policy then continues and underscores that nothing in its language is intended to restrict an officer from drawing and exhibiting a firearm in self-defense.

### Results

It is important to distinguish, particularly with high-retention holsters, between the technical aspects of drawing and exhibiting a handgun and the legal-tactical aspects of doing so. We have assumed that both are integral aspects of this requirement, though the latter is far more salient in terms of CASA requirements. It might be useful to reiterate in this section that pointing a firearm at a person is legally viewed as a use of force that is reportable under the Department's Show of Force procedure. Hence, doing so must be objectively reasonable based upon the totality of circumstances that the officer confronts and, further, the officer must articulate fully those circumstances in any related reports.

In the view of the monitoring team, APD has met the procedural requirement of this Paragraph. It is important to note, that moving forward the connection between this Paragraph and APD's Show of Force procedures. The proper supervision and collection of data in Show of Force situations may have implications on operational compliance with this Paragraph.

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

## 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 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

The monitoring team carefully reviewed a second draft of Procedural Order 2-52 Use of Force, received in September 2015, and provided APD with feedback concerning the specific language requirements in this paragraph, as well as comments concerning continuing issues with the overall quality of the draft; A third draft, received during our November 2015 site visit, was reviewed with APD and DOJ representatives. Along with continuing issues with the quality of the structure and flow of the draft, the third draft contained several deficiencies with content requirements, and again fell short meeting the requirements of this paragraph. A working session occurred between the monitoring team and APD representatives wherein technical assistance was provided with respect to future drafts of Procedural Order 2-52. As with other sessions with APD, the monitoring team found the APD representatives tasked with completing Procedural Order 2-52 as receptive and fully engaged in providing an acceptable and professional product.

## Results

With respect to the specific requirements pertaining to discharging a firearm at or from a moving vehicle, the two additional drafts that were reviewed fell short of meeting the requirements of this paragraph. Paragraph 22 in the CASA bars shooting at a vehicle, even if it is being used as lethal force against an officer or other persons. As of this writing, that prohibition has been modified in latest version of Standard Operating Procedure 2-52 Use of Force (December 15, 2015). Section 2-52-3 F. 4. Lethal Force and Motor Vehicles now authorizes doing so when a "...subject is intentionally driving into an officer or others...only if the officer has no reasonable alternative..." Sub-section c. also requires an officer to weigh whether the use of deadly force would create additional risks to any bystanders. The language appears to be a reasonable compromise to curb indiscriminate firing at vehicles, yet still provides officers the discretion to use deadly force in narrow, extremely high-risk circumstances. Recent experience nationwide attests to the need for such discretion in extreme cases.

The monitoring team specifically requested a list of all OIS cases completed (closed out in terms of process) between June 1, 2015, and November 30, 2015, assuming that several vehicle shootings would be included. APD subsequently advised us that no OIS cases had been closed out during the reporting period because Police Oversight Board (POB) training requirements had not been met, thus delaying POB review and case closure. In this regard, the monitoring team also reviewed a chart titled *CPOA Pending Use of Force*

*Cases* (Compiled October 26, 2015) provided in response to one of our data requests.

Our review of the chart revealed serious delays in the CPOA oversight process, in some cases dating back several years. There are nine cases categorized as "Pending Board Review" on the chart, one dating back to August 2012, and five dating back to sometime in 2014. (None of the cases are officer-involved shootings, but the backlog would obviously affect such cases.) Frankly, this is unacceptable for several reasons. First, the lack of timeliness undermines public confidence in the process. Second, it creates unnecessary uncertainty and anxiety for any involved officers who expect and are entitled to timely resolution. Third, delay may bar disciplinary action when applicable deadlines are exceeded. Fourth, important feedback to the Department may be delayed rendering it of limited value. The City in our view must take immediate, effective action to correct this situation. If POB review is the final step in the APD/City oversight and accountability process for screening officer-involved shootings, the present bottleneck precludes monitoring team review of this critical subset of use of force cases.

The monitoring team has similar concerns about apparent delays in the District Attorney's processing of APD OIS cases. We received a spreadsheet titled *Officer Involved Shootings as of 9.21.15* (source not indicated) from the Albuquerque Police Officer Association (APOA), which shows the status of all OIS cases currently under review by the District Attorney's Office. There are numerous APD cases categorized as "ongoing", the oldest dating back to October 26, 2013. In that particular case, the spreadsheet indicates that the case reports were only received on June 5, 2015. Whether this was due to delays in the original APD investigation or subsequent POB processing is unclear. No doubt OIS cases are typically very complex and labor-intensive, but for the reasons enumerated above, timely processing is absolutely essential. This is an issue that the monitoring team will continued to assess and evaluate in future reporting processes.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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

APD is building a comprehensive Early Intervention System (EIS) to accommodate this task. As of the monitoring team's last contact with the individuals responsible for this task, the EIS and accompanying policies regarding its operation, use, and functions were still "under development." The monitoring team observed that APD submitted draft SOP 2-05 Internal Affairs Division, dated November 30, 2015, for the monitoring team's review. The outcome of that submission will be reported in the next monitoring period.

### Results

No tangible outputs were available for review by the monitoring team as of this time.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.11 Assessing Compliance with Paragraph 24: Use of ECWs

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.**

### Methodology

The APD has decided to remove the sections dealing with Electronic Control Weapons (ECWs) from the departmental Use of Force policy (PO 2-52) and recast it as a stand-alone directive. The monitoring team has not discussed this decision with those responsible for policy at APD, but as the original Use of Force policy, in the opinion of the monitoring team, needed substantial revision, developing a stand-alone ECW policy may be beneficial, so long as the final two policies (Use of Force and Electronic Control Weapons) are clear that the use of ECWs ***is*** a controlled use of force, subject to the requirements established generally by the department's final Use of Force policy. The proposed ECW policy does prohibit use of the weapon as a compliance tool or to overcome passive resistance. The final policy had not been completed and

approved by the monitoring team as of the end of November 2015, however, and as a result the APD is not yet in compliance with this paragraph.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

### Methodology

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was, provided to the monitoring team on September 2, 2015, and is currently in the review-comment-revision process by the Parties.[4]

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

### Methodology

[4] The Parties include the City of Albuquerque, the United States Department of Justice, and the Albuquerque Police Officers' Association.

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, and is currently in the review, comment, revision process by the monitoring team and the Parties.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

**Methodology**

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, and is currently in the review, comment, revision process by the monitoring team and the Parties.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

### Methodology

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, and is currently in the review, comment, revision process by the monitoring team and the Parties.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

### Methodology

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, and is currently in the review, comment, revision process by the monitoring team and the Parties.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

### Methodology

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, and is currently in the review, comment, revision process by the monitoring team and the Parties.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

**Methodology**

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, and is currently in the review, comment, revision process by the monitoring team and the Parties. [5]

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 32 stipulates:

---

[5] By this point, the reader has more than likely noted a pattern of delay between the time policies are completed and are submitted to the monitoring team and DOJ, with multiple policies being submitted by APD to the City Attorney's Office, and then, in turn, being submitted by the City Attorney's Office (CAO) to the monitor, two months later. The monitor has advised the APD and the City on several occasions that this "batch processing" of policy work product cannot continue. It creates a repetitive pattern of submission of policy work *en masse* after taking (often) months for the CAO to assess and review them, then expecting the monitoring team to process them all within the 15 day timeline stipulated in the CASA at paragraph 147. The City is formally hereby placed on notice that submission of bulk policy work is not an acceptable process, and that policy submissions should be worked through individually, in order of importance to the CASA, and submitted when due. In the future, bulk policy submissions will be processed by the monitoring team using, if necessary, 15 days ***per policy*** based on the monitoring team's assessment of the priority of each policy.

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

### Methodology

Paragraph 32 requires that APD officers wear their ECW holsters on the weak side to avoid "weapon confusion" in high-stress situations. Section 2-53-5 of the new ECW policy includes such a requirement, but does not establish the responsibility of supervisors and commanders to conduct regular inspections at roll call briefings to ensure compliance. Because of the high risk and costs of weapon confusion associated with improper placement, a regular inspection process is essential. Gun belt configuration might also be addressed regularly at the start of any weapon-related training.

APD intends to include the requirements in Paragraph 38 in its revision of SOP 2-05 Internal Affairs (this appears to be a bureau-level policy), which the monitor has scheduled for review shortly (Refer to the monitor's memorandum to the parties, dated December 11, 2015, which sets a schedule for APD policy reviews).

Members of the monitoring team have performed "convenience" inspections of APD personnel in the course of their site visits by visually noting whether or not the ECW is always in the "weak" side of their uniform equipment. To date, none of these "convenience" inspections have noted any violation of this section of the CASA. Convenience inspections will not suffice however as the sole source of verification of this critical piece of policy enforcement. The monitoring team deems it essential that APD develop, implement and document regular roll-call inspection of duty equipment to ensure uniform compliance with this section of the CASA. Results of these inspections should be maintained for use as demonstration of effective supervision in the event of civil suits relating to supervision of ECW procedures.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 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

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, and is currently in the review, comment, and revision process by the monitoring team, DOJ, and the City.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 34 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**

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, and is currently in the review, comment, revision process by the monitoring team and the Parties.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.22 Assessing Compliance with Paragraph 35: Exposure and Medical Evaluation

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.**

**Methodology**

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, and is currently in the review, comment, and revision process by the monitoring team and the Parties.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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).**

### Methodology

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, and is currently in the review, comment, and revision process by the monitoring team and the Parties.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 38 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.**

### Methodology

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, and is currently in the review, comment, and revision process by the monitoring team and the Parties.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**

Operational: **Not Yet Due**

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

Paragraph 38 stipulates:

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

#### Methodology

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, and is currently in the review, comment, and revision process by the monitoring team and the Parties.

#### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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**

#### Methodology

Members of the monitoring team accessed and reviewed APD's General Order 1-46 Emergency Response Team (ERT) dated July 8, 2015, along with Field Services Bureau Order 3-19 Response to Demonstrations, dated July 8, 2015, and 4-12 K-9 Unit, dated December 5, 2013. Although the July 8, 2015, 1-46 order is more responsive to Paragraph 39 it still falls short meeting the specific requirements of the CASA.

**Results**

Paragraph 39 expressly requires that APD policy requirements shall include language regarding APD's mission in handling crowd control situations, facilitating "peaceful and lawful gatherings", and the safeguarding of free speech and assembly rights. It also requires a specific prohibition on the use of canines for crowd control. Although the opening section is titled Mission, there is no mention of the specific provisions in Paragraph 39, sub-sections a) through c). To APD's credit, these issues are mentioned in a later section---1-46-4-H Training, but they are not featured prominently in the opening statement of the Department's mission and role. By simply adopting the language in these three sub-sections and inserting them in the opening section APD would be in primary compliance with the first three requirements in Paragraph 39. It would also be sound to retain these provisions in the Training section.

Another issue that requires further modification is the prohibition on using canines for crowd control. To ensure clarity, the prohibition should be explicitly stated in 1-46 and any related policies. APD should also eliminate the previous version of Field Services Bureau SOP 4-12 K-9 Unit (12/5/13), which contained detailed provisions on the use of canines in crowd control. The document includes two different iterations of 4-12; one version is silent to the use of K-9 for crowd control, while a separate page extracted from the policy allows the use of K-9 during certain situations. The monitoring team reviewed Procedural Order 2-45, and is also aware of a PowerDMS presentation on 2-45 Use of Canine Unit, which will be reviewed during the next reporting period. This is another example of the failure to align related polices, some at different organizational levels, to ensure coherence and uniformity. The prohibition should be included in both policies, which should also define the types of K-9 assignments that might be warranted as ancillary tasks in such situations (e.g., property protection).

Finally, the monitoring team reviewed Field Services Bureau Order 3-19 Response to Demonstrations, dated July 8, 2015, which is also silent on the prohibition on use of canine units in crowd control. (It should be noted that the monitoring team copy may be incomplete, as the document reviewed consisted of a single page that did not indicate the total number of pages in the policy.) This, again, reinforces the need for APD to conduct a comprehensive

review of all policies with a common subject matter, but generated at different organizational levels, as part of the policy development, review, and revision process.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.27 Assessing Compliance with Paragraph 40: After Action Reviews

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.**

### Methodology

The monitoring team reviewed Standard Operating Procedure 1-46 Emergency Response Team (ERT) (7/8/15), Section 1-46-3 B. 9, in which APD has incorporated this requirement. The language states, "(ERT Supervisors) Shall require an after-action review of law enforcement activities following each response to mass demonstrations, civil disturbances, or crowded situations to ensure compliance with applicable laws, best practices, and APD policies and procedures." Additionally, the monitoring team reviewed an ERT After-Action Report dated May 9, 2014, that summarized an ERT call-out to handle a group of protesters who intended to disrupt an Albuquerque City Council meeting on May 8, 2014. The protesters had successfully shut down a Council meeting on May 5, 2014. Prior to the protest APD command staff held a briefing at which the Council President reviewed the protocol for responding to meeting disruptions. The task of arresting and escorting protesters from the Council Chambers was assigned to City Security, who then would turn them over to ERT officers. An operational briefing was held on May 7, 2014, to review possible contingencies and plans for dealing with each. These are important pre-incident procedures and appeared to have been handled well. The memo provides no information about the actual event, nor anything about the effectiveness of APD pre-incident plans.

Thus, despite being captioned as an After-Action Review, the memo is actually a somewhat sketchy operations plan. There is no information on what actually occurred, whether operational plans were successful, and what was learned from the event to inform future operations. Normally these two activities---operational planning and after-action assessment---are distinct stages and elements of each are codified in some form of standard template. The first usually results in the development of a formal, written Incident Action Plan

(FEMA) or Operations Order, while the second usually involves completion of a well-structured template that includes all of the major topics that need to be covered in a post-incident assessment. The monitoring team has reviewed numerous APD SWAT After-Action Reviews and found all of them thorough and substantive. APD should ensure that standard templates exist for both Operations Orders and After-Action Reviews, including a section on important "lessons learned". The monitoring team will ask to review any standardized templates for the two activities, along with a sample of completed documents, during the next reporting period. We will also examine how any lessons learned are fed back into the training and policy development functions.

**Results**

While additional work may be necessary with respect to the quality of ERT after-action reporting, APD has met the policy requirement of Paragraph 40. The operational implementation of this Paragraph will be reliant upon the quality of training that is provided to APD and during broader reviews of APD after-action reports. APD should consider the guidance provided in this report, since it provides a view into future evaluations of this Paragraph.

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

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

Paragraph 41 stipulates:

**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.**

The monitoring team reviewed the APD Use of Force Data Report during its review of sixteen Supervisory Use of Force Investigations as part of the first reporting period and prior to the release of IMR-1. Additional feedback concerning the overall structure of the report, and its utility for adequately capturing data requirements of the CASA, was provided during the monitoring team's November 2015 site visit. Although the form is extremely comprehensive, which is certainly a positive characteristic, the monitoring team made several comments regarding the report, and observations over the structure of narrative sections and the relatively obscure placement of the video evidence field. Specifically we noted that:

1. The "blank sheet" approach to both the supervisor and reviewer's narrative sections is problematic because it usually results in major inconsistencies and wide variations in the quality of reporting. For instance, legal justification is an important aspect of any force investigation. A specific heading should be provided to structure the reporting on this issue after the investigator provides a brief synopsis of the incident. (The supervisor should avoid simply regurgitating the officer's narrative) Likewise, the manner in which a supervisor must assemble facts from officer narratives may cause information gaps. Additional headings should be added to reports to ensure that important topics are reliably covered in every investigation. Concurrent with any structural changes to the report that should be considered, APD should address the issue of standardized, structured narratives in its in-service training to officers and supervisory training on the conduct of supervisory force investigations, and consider a performance aid, such as a checklist.

2. The overall utility of the Use of Force Report should be expanded. Also, in the future APD may want consider developing the document in a web-based format to create efficiencies in collecting, collating and archiving data.

3. The existence of video evidence is indicated by a relatively small, obscure check box in the Evidence Collected fields on page four of the Use of Force Data Report. It includes a small space to provide an explanation if "No" is checked. Hence, it is not immediately clear what video evidence does or does not exist. Because of the emphasis placed on the use of video by APD officers, the monitoring team suggested that the topic be featured more prominently on the form and included as a standard heading in the investigator's and reviewer's narratives.

4. The Use of Force Data Report is a stand-alone document, unconnected to a particular Procedural Order. Typical policy writing conventions would include appending forms to policies they support.

5. APD should also consider adding a prominent field at the beginning of the report to indicate the level of force being reported to support data entry and retrieval. (We appreciate that APD has commissioned an ongoing project to develop new capabilities in its database management systems to meet CASA compliance objectives. This issue will be addressed without doubt in that process) During the current reporting period, APD staff advised the monitoring team that it was unable to generate a separate list of serious uses of force from its database, which was one of our requests. We

intended to review a sample of those investigations to assess compliance with CASA requirements. Because of the inability to generate a separate list by the level of force, we were precluded from conducting such an assessment.

**Results**

The monitoring team worked with APD as they continued their drafting efforts with Procedural Order 2-52 Use of Force. APD has been provided considerable feedback concerning 2-52, in both written form and during face-to-face meetings. APD has decided to extract use of force reporting and investigatory responsibilities into stand-alone Procedural Order 2-54 Use of Force Reporting and Supervisory Force Investigation Requirements. Like other policies reviewed by the monitoring team, significant content and structural issues were noted. Deciding to create a stand-alone policy dealing with force reporting and supervisory investigations is appropriate and will provide a better platform for training and field implementation, once APD completes the drafting process and the policy is approved by the monitor. Additional technical assistance and feedback has continued, and we expect considerable progress in their draft of Procedural orders 2-52 and 2-54 for the third monitoring period.

There are a number of other policies that deal with use of force investigations, including SOP 2-31 Investigation of Officer-involved Serious Use of Force and In-custody Deaths (Draft: Undated), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: 12/17/15), the MATF OIS Memorandum of Agreement (2014), and Bureau SOP 2-05 Internal Affairs Division (11/2015). There should be a central point within APD that ensures that related policies are reviewed simultaneously to ensure alignment and where historical records are maintained to track policy revisions (this is clearly a best practice). For instance, Bureau-level SOP 2-05 includes a definition for the Force Investigation Team, which we understand has been replaced by the Investigative Response Team (IRT). While this is a relatively minor discrepancy, the monitoring team has found major conflicts in other areas (e.g., canine deployment in crowd control situations).

During its next visit, the monitoring team will meet with APD staff to review the status of the Use of Force Data Report in light of the monitoring team's comments about the several significant issues and procedures that APD currently uses, or intends to use, to ensure alignment of kindred policies, especially those generated at different organizational levels.

APD is not in compliance with paragraph 41 as of this date; however, continued work between the parties to draft acceptable polices relating to force reporting and investigations is continuing to occur, and should result in positive progress being reported in the third monitoring period.

During its next visit, the monitoring team will meet with APD staff to review the status of the Use of Force Data Report in light of the monitoring team's comments about the several significant issues and procedures that APD currently uses, or intends to use, to ensure alignment of kindred policies, especially those generated at different organizational levels. The monitoring team **strongly recommends** that the APD focus clearly on the level of inter-relationship and interdependencies across related policies, and ensure that all policy language that is inter-related and/or interdependent is **congruent.**

APD is not in compliance with paragraph 41 as of this date; however, continued work between the parties to draft acceptable polices relating to force reporting and investigations is on-going.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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 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.**

**Methodology**

The monitoring team reviewed draft SOP 2-54 Use of Force Reporting and Supervisory Force Investigation Requirements (Draft: November 15, 2015), which is currently undergoing final revisions in a review by the Parties. The pertinent CASA requirements are addressed in Section 2-54-2.A., sub-sections 1.a. through g., though several critical phrases are not included. For example, sub-section c. omits the language "...including the subject's behavior....". Further, the policy makes no mention of describing the "...level of resistance encountered....". Sub-section b. does not mention avoidance of "boilerplate language" or "conclusory language."

**Results**:

In the monitoring team's judgment, this section fails to meet the CASA requirements in Paragraph 42, because the omissions deal with critical aspects of force reporting.

**Results**:

APD is not in compliance with paragraph 42 as of this date.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

### Methodology

Department Special Order 15-91 Use of Force Investigative Procedures (October 20, 2015) mandated that all APD personnel "...follow the requirements set forth in the Settlement Agreement". This included Paragraphs 41-45 that deal specifically with use of force reporting. Section 2-54-1 A.1. of SOP 2-54 Use of Force Reporting and Supervisory Force Investigation Requirements (Draft: November 13, 2015) incorporates the requirement in Paragraph 43.

### Results

APD will be in primary compliance once the draft Procedural Orders 2-52 and 2-54 are approved by the monitor. While the promulgation of SO 15-91 provides an intermediate measure, it was issued by the department months following the CASA being initiated, which may have allowed gaps between CASA requirements and field operations. It will be critical for APD to not only issue an approved policy that addresses this paragraph, but also to provide meaningful training so officers and supervisors understand their responsibilities concerning reporting responsibilities relating to failing to report uses of force.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**

Operational: **Not Yet Due**

### 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.**

#### Methodology

Department Special Order 15-91 Use of Force Investigative Procedures October 20, 2015) mandated that all APD personnel "...follow the requirements set forth in the Settlement Agreement". This included Paragraphs 41-45 that deal specifically with use of force reporting. Section 2-54-1 A.1. of SOP 2-54 Use of Force Reporting and Supervisory Force Investigation Requirements (Draft: 11/13/15) incorporates the requirement in Paragraph 44.

#### Results

APD will be in primary compliance once the draft Procedural Orders 2-52 and 2-54 are approved by the monitor and the Parties. While the promulgation of SO 15-91 provides an intermediate measure, it was issued by the department months following the CASA being initiated, which may have allowed gaps between CASA requirements and field operations. It will be critical for APD to not only issue an approved policy that addresses this paragraph, but also to provide meaningful training so officers and supervisors understand their responsibilities concerning medical services and force injuries. The APD has been placed on notice that such "short hand" policy development, i.e., referring officers to the CASA, is unacceptable "policy work." The monitoring team will continue to watch for such lapses in proffered policy.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

### Methodology

Department Special Order 15-91 Use of Force Investigative Procedures (October 20, 2015) mandates that all APD personnel "...follow the requirements set forth in the Settlement Agreement". This included Paragraphs 41-45 that deal specifically with use of force reporting. Section 2-54-1 A.3. of draft SOP 2-54 Use of Force Reporting and Supervisory Force Investigation Requirements (Draft: November, 13, 2015) incorporates the requirement in Paragraph 44. Draft SOP 1-39 Use of On-body Recording Devices/ Management of Recordings, undated, also includes a provision for mandatory video recording of all use of force encounters in Section 1-39-4 B.4.a.

### Results

The APD has been placed on notice that such "short hand" policy development, i.e., referring officers to the CASA, are unacceptable "policy work." The monitoring team will continue to watch for such "shorthand" lapses in proffered policy. It will be critical for APD to not only issue an approved policy that addresses this paragraph, but also to provide meaningful training so officers and supervisors understand their responsibilities concerning reporting responsibilities relating to failing to report uses of force.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.33 Compliance with Paragraph 46: Force Investigations

Paragraph 46 stipulates:

**All uses of force by APD shall be subject to supervisory force investigations as set forth below. All force investigations shall comply with applicable law and comport with best practices. All force investigations shall determine whether each involved officer's conduct was legally justified and complied with APD policy.**

As part of its review for the Independent Monitor's first report (IMR-1), the monitoring team requested a list of all supervisory force investigations for the first reporting period. From that we drew a sample of sixteen (16) cases stratified by type of force. The review looked at all of the reports in each case

and the associated video evidence. Because the amount of officer videos fell short of what we expected, given the number of officers involved, we made a second request that produced an eight-fold increase in the amount of video. The delay in receiving a full inventory of video evidence precluded the monitoring team from completing a full review of fourteen (14) cases. However, because they involved potential policy violations, we did complete a thorough review of two cases and reported on them in IMR-1. We also concluded that a third case, which involved remedial training in the use of force area, was poorly handled and that the recommended remediation had in fact not occurred. We report further on the three cases below, noting that proper follow-up by APD only took place in one of them. The remaining two cases still contain significant, unresolved issues in the judgment of the monitoring team.

The monitoring team decided to forego an in-depth review of the outstanding fourteen investigations for the following reasons:

1. The sample investigations were conducted under pre-existing policies and, therefore, not necessarily in accordance with CASA requirements. On October 20, 2015 Chief Eden issued Special Order 15-91 Use of Force Investigative Procedures, which directed all personnel to follow the requirements of CASA Paragraphs 41-77 in use of force investigations and reporting.

2. Though we lacked complete video files, we reviewed all of the other material in the fourteen cases and provided significant feedback on a number of issues in IMR-1.

3. Reviewing the fourteen cases would be time-consuming and most likely of limited marginal value, given the transition from the old reporting and investigation regime to the CASA-required one. Based upon our otherwise in-depth review of the fourteen cases, we also concluded that the likelihood of finding evidence that would turn "upside down" our original assessments in the fourteen cases was slight.

The monitoring team will draw a new sample of supervisory force investigations when sufficient time has passed to allow for full implementation of CASA requirements.

The following cases were reviewed for IMR-2:

- In Case #1 reported on in IMR-1, a domestic violence suspect was struck in the head with an ECW probe during an arrest when he attempted to resist the officers. In their investigation, APD did not flag the fact that one of the ECW probes struck the suspect in the head, although the supervisory investigation and reviews did note the suspect turned suddenly

in relation to the ECW deployment. CASA Paragraph 30 prohibits the intentional targeting of a suspect's head except under circumstances where lethal force would be permitted. The monitoring team flagged this case because the force investigation was silent to the cause of the ECW probe striking the suspect's head.

- In Case #2, reported on in IMR-1, issues were identified concerning an event where APD officers attempted to arrest a highly combative suspect, who violently resisted arrest. Among other issues of concern, APD did not recognize and flag the fact that four (4) ECW cycles were used against the suspect that would constitute a serious use of force (As per CASA 12qq); and APD failed to flag an officer's knee position during the arrest as possibly constituting a neck hold (As per CASA 12gg). If the latter was determined by APD to be a neck hold, that would have constituted lethal force (As per CASA 12aa). Some other issues not identified during APD's initial investigation included a Commander's failure to respond to the scene, despite the fact that one of the officers was a lieutenant, and whether one of the officer's who approached the suspect did so in a tactically sound manner under the circumstances.

In both cases, the monitoring team made no determination as to whether the level of force was objectively reasonable under the circumstances. APD was asked to provide all documentation concerning follow up actions they conducted into these cases to resolve monitoring team concerns reported in IMR-1. APD assigned their Critical Incident Review Team (CIRT), functionally located within Internal Affairs (IA), to review the circumstances surrounding each case and make appropriate recommendations. It is the monitoring team's expectation that CIRT's role would be to collect all relevant facts, and complete a comprehensive and objective assessment of the cases.

**Case 1**

The monitoring team reviewed the CIRT investigation, which centered on the appropriateness of the force used, specifically an ECW deployment. The investigator offered an analysis of the facts to make a determination whether the ECW probe that struck the suspect's head was intentional. After reviewing the CIRT investigation, and the underlying analysis, the monitoring team is satisfied that their review satisfactorily resolved any concern that the ECW probe was intentionally targeted at the suspect's head. The report was concise and logically prepared, and offered a clear and objective analysis of observations they made from officer lapel videos. CIRT organized their conclusions under the heading "Findings and Recommendations," wherein they documented that the force used was consistent with the applicable APD use of force policy and that in their opinion the ECW probe striking the suspect's head was not intentional. Moving forward, APD should work to have this type of analysis at the initial investigative levels. That end can be reached

through supervisory training that incorporates internal needs assessments, lessons learned from APD specific cases, and by instituting legitimate accountability measures. This particular case provides an opportunity to channel lessons learned from the supervisory investigation back to the training academy. The report provided to the monitoring team showed no indication CIRT made such recommendations. APD could "close the loop" on cases such as this by demonstrating that they have connected and incorporated operational needs into training lesson plans.

**Case 2**

The monitoring team reviewed the CIRT investigation into the second case, which was more complex to assess. In the view of the monitoring team, the CIRT investigation and assessment failed to adequately resolve concerns communicated in the IMR-1 reporting period. An early step in any investigation is to get a firm grasp on all the evidence, in whatever form. The investigator provided a written narrative and four (4) screen shots from three different officer lapel videos that he believed supported his investigative findings and conclusions. While the investigator documented reviewing "...all the videos of the incident," he failed to review the lapel video that initially gave rise to the monitoring team's concerns. It is that video the investigator needed to review, since it contradicts some of his investigative findings. Likewise, it appears the investigator confined his review to only current written reports and lapel videos, and did not appear to attempt new investigative efforts.

While a host of issues were communicated to APD concerning this case, the investigation instead focused on only three (3) areas. Under the report section "Findings and Recommendations" CIRT concluded: 1) That a senior officer violated departmental policy by failing to respond to the scene, however, there is no indication of a recommended course of action following that finding; 2) That the use of four (4) cycles of an ECW was justified and in compliance with current APD policy, however, there is no investigative reference to APD's responsibilities under the CASA and the fact that four (4) cycles of an ECW constituted a serious use of force (As per CASA 12qq); and 3) That the officer's knee placement during the arrest does not fall under the definition of a neck hold (As per CASA 12gg). **Note** - The report provides "Findings" but there is no indication of any "Recommendations." (i.e., Counseling or referrals to IA or the training academy)

Notwithstanding the fact that APD apparently failed to review a full record of the case before reaching their conclusions, as a word of caution, in the view of the monitoring team there are other investigative deficiencies in CIRT's review. Until such time APD has an opportunity to consider the entire record, specifically the fourth officer lapel video, it is impossible for the monitoring team to close out its review of this event. Also, when considering the reports, videos and screen shots reviewed by the investigator, it appears to the

monitoring team that certain observations of the actions of the officers should have given rise to some sort of formal cautionary counseling or training referral. Finally, the investigator's report writing style is consistent with other reports reviewed by the monitoring team. While there are instances where the investigator distinguishes between his objective observations and information he is relating from officer reports, in most areas it is impossible to determine the difference. The CIRT review is woven together in a manner that does not clearly illustrate what information was independently collected, and what information is an investigator simply repeating an officer's report narrative. Moving forward, APD should consider the structure and flow of investigative reports, of all sorts, to ensure independent facts and observations can be properly distinguished. In particular, all use of force investigations should follow a logical sequence that distinguishes the independent observations of investigators. In both Case #1 & #2 the CIRT investigator provided findings inconsistent with typical IA terminology (I.e., Sustained, Unfounded, Exonerated, etc.).

**These comments from the monitoring team should be seen as a clarion call to APD. Effective policy, training, audit, supervision and remediation of faulty CIRT reports are *critical* to the effectiveness of the underlying processes.**

**Case 3**

The facts and circumstances surrounding a third use of force case, not reported on in IMR-1, raised additional concerns over force used by an officer, as well as the supervisory force investigation and subsequent command reviews. The sequence of events surrounding the monitoring team's review of that case carried into the IMR-2 reporting period, therefore, our observations are documented here. The case facts include:

In February 2015, an APD officer observed a white sedan being operated erratically. The officer attempted to conduct a traffic stop, but the suspect vehicle continued on and pulled into the area of a hospital emergency room. When the vehicle stopped the driver exited the car and indicated that her passenger had been stabbed. The passenger exited the vehicle and collapsed on the ground, while the driver reentered the vehicle car in a hurried manner. The officer ordered the driver to turn the car off and hand over the keys, since he was still attempting to ascertain who could have stabbed the passenger. The driver failed to comply with the officer's order and put the car in drive. As the vehicle pulled away the officer deployed his issued OC spray into the face of the driver. The driver again operated the vehicle at a high rate of speed, almost running over a hospital employee who was walking through the parking lot. (Note- it was later learned the driver had a suspended driver's license) The officer documented in his report that he believed that his lapel

camera was activated, but after the incident he realized that he had not captured the incident with his camera.

The officer's sergeant responded to the scene and conducted the use of force investigation, documenting his findings in a report dated February 2, 2015. The sergeant did not document any concerns that the officer deployed OC spray into the face of the driver as she fled from the hospital. The following are ***some*** other concerns/issues:

- The sergeant noted, "Additional issues of concern not related to use of force incident have been identified and addressed in a separate memo," however, there is no indication as to what those issues of concern were. It is unclear why the specific additional areas of concern "...not related to use of force..." were not documented within the report. In the initial report provided to the monitoring team, a copy of a memo was not included to explain what the additional area of concern was that was unrelated to the use of force.

- The sergeant documented the force used by the officer was "Reasonable/Within Policy;" however, he does not provide sufficient analysis as to the appropriateness of the actions of the officer.

A lieutenant reviewed the supervisory force investigation and documented his findings on February 9, 2015, and a Commander reviewed the case on March 5, 2015. Both failed to document issues with the force used by the officer, or shortcomings with the supervisory investigation. They both indicated the force used by the officer was reasonable and within policy, but there were "Additional areas of concern not related to use of force incident have been identified and addressed in a separate memo." Neither report documented the areas of concern they identified, nor was the monitoring provided with additional documentation.

- The reports prepared by the lieutenant and Commander did not adequately assess the appropriateness of the actions of the officer.

- The Commander reported the officer would be required to attend training by the academy, and once completed it would be documented on the officer's employee card. Note - There was no training documentation provided to the monitoring team.

- The Commander checked the report box to indicate he "Concurred" with the earlier reviews of the officer's actions. In fact, the Commander documented the following, "...the force was not unreasonable and did not violate Department policy." It is not apparent that any level of review caught or corrected this blatant error by the Commander.

The monitoring team made a subsequent request for data for all documentation and training materials relating to the case. Specifically, the monitoring team was interested in the areas of concern not related to use of force that were noted during the investigation, and how they were dealt with through training. The following sequence occurred:

- On August 27, 2015, nearly seven months following the event, the monitoring team was notified by APD that the officer never received the mandated training, but was scheduled for September 2, 2015.

- During the second monitoring team visit, in November 2015, members of the monitoring team met with APD and discussed this case. The monitoring team still had not received the requested training documentation, and it was learned that the training was only scheduled following the monitoring team's request for the training materials.

- The monitoring team observed there was a different "Review (Brief by Lieutenant)" form (Still dated February 2, 2015) in the system. In this review the report ends with the lieutenant documenting the following, "The use of OC spray to prevent a potential suspect from driving away requires further review by the FIT team. The potential harm that could be created by a driver suffering the effects of OC spray does not appear to be justified in this incident." In this new report the box for "Reasonable/Within Policy" is no longer checked. Instead, the box for, "Needs Further Review" is now checked by the lieutenant.

The existence of two reviews, dated the same date, by the same lieutenant raised concerns with the documentation the monitoring team was initially provided, which also did not include a copy of the training memo. The monitoring team learned there were two separate force investigation files associated with this event. The second file, not initially provided to the monitoring team, has a revised review (Brief by Lieutenant), and includes a memorandum, dated February 18, 2015, from the initial investigating sergeant to his Commander. Also, the second file does not include a Command Review, which creates a significant lack of cohesiveness to the investigation, since the last line in the original Command Review submitted to the monitoring team indicated the force in this case was reasonable and within departmental policy. APD told the monitoring team there were administrative issues that led to two different reports being prepared by the lieutenant. However, this case illustrates APD's case management system may be vulnerable to being compromised, when an officer can submit two separate reports for the same incident without changes to those reports being officially tracked.

The February 18, 2015, memorandum prepared by the sergeant documented well three specific areas of concern with respect to the actions of the officer. The sergeant recommended that the officer receive refresher training in:

- The proper use and techniques when administering OC spray;
- Calling out his position when dealing with a suspicious person/vehicle; and
- Making sure his camera equipment is working properly and used within department policy.

Notwithstanding the investigation deficiencies noted earlier, the monitoring team sees the areas recommended by the sergeant as being appropriate remedial training topics. However, how and why the sergeant changed his initial assessment of the appropriateness of the officer's actions and referred him for training is still unknown. Also, the supervisory and review determinations indicated there were additional issues identified that were not related to the use of force, when the sergeant's memo clearly show that the "Additional Issues" memo was related to the officer's use of his OC spray.

The monitoring team was provided a number of training materials related to this incident, including a "Mandatory Training Form," dated July 7, 2015. (Note - The monitoring team was notified in August 2015, that the remedial training was scheduled for September 2, 2015) That information, coupled with APD's acknowledgment that the training was only scheduled after the monitoring team requested the training materials raises questions over the training records that were provided. These inconsistencies may be another administrative breakdown, or miscommunication, but when coupled with other deficiencies and inconsistencies in the case APD should consider referring to IA a review of the time sequence of this entire case.

Finally, the training materials provided to the monitoring team in this case could not be expected to affect any meaningful change in the performance of the officer. The training materials provide no evidence that the performance deficiencies identified in the sergeant's February 18, 2015, memorandum have been addressed. Other issues included:

- The "Mandatory Training Form" is unsigned by the officer;
- The officer was, "...given study material and allowed on duty time to study for seven days. He returned to the academy for a review and completed a test on the material;"
- The monitoring team was not provided with a test that was signed and completed by the officer;
- The curriculum and testing materials are devoid of information relevant to the force investigation at hand, or the deficiencies that were identified with the officer's conduct.

While this may be an isolated event, the circumstances of this case raise serious concerns over APD's current ability to legitimately mitigate performance deficiencies through training. The manner in which the training material was provided to the officer is inconsistent with generally accepted

training methods and best practices, but the most startling aspect to the training is that nowhere in the curriculum were the core deficiencies identified by the sergeant addressed. It is essential, therefore, that APD reconcile these issues. While there may be legitimate explanations for some issues that were identified, there appears to be serious breakdowns in process and oversight.

During the next site visit the monitoring team will review records that document the steps APD took to "close the loop" and address deficiencies in the supervisory force investigations that were reviewed, and how lessons learned have been transmitted to the academy and incorporated in supervision training.

**Results**

APD SOP 2-54 Use of Force Reporting and Supervisory Force Investigation Requirements (Draft: November 13, 2015) is under concurrent review and revision by the monitoring team, DOJ, and APD staff. Approval is expected shortly, which may bring APD into Primary Compliance on the requirements in Paragraphs 45-59. APD should be cautious to ensure that ALL interrelated use of force and force investigation policies are consistent in message and meet the requirements of the CASA. Finally, on October 20, 2015, APD instituted Departmental Special Order 15-91 that mandates that all Use of Force Investigations shall follow CASA reporting requirements. The monitor has frequently and forcefully disavowed the credibility of "Policy through Referral" to the CASA. In the monitor's opinion, it is critical that APD "own" the policies that guide its operation. Distribution of organizational expectations in this manner, particularly without underlying policy and training, serves to put the organization on notice, but cannot be relied upon to effectively implement meaningful change. The complexities of the CASA are still being sifted through at the command level; therefore, expecting front line and mid-level supervisors to accurately interpret and implement the terms of the CASA as a result of SO 15-91 is simply not realistic.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 47 stipulates:

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

### Methodology

The policy controlling supervisory force investigations has not been effect for a sufficient period of time to allow for review of promotions of supervisory personnel to determine if the quality of these reviews is part and parcel of the promotional process for higher-ranking officers.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 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 two categories or types of force that will determine the force 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 optimize APD's supervisory and investigative resources on uses of force. 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.**

### Methodology

The monitoring team reviewed the APD's initial Use of Force policy and found that, overall, it fell short of the full requirements of the CASA related to use of force issues. The policy submitted complied with the requirements of this section, in that it identifies at least two categories of use of force that determine the type of investigation required (non-lethal force, investigated by the officers' immediate supervisors and potentially lethal force, investigated by the IAB). Supplemental policies on Use of Force were not submitted in time to determine if those applicable provisions were carried over.

While proposed policy addresses the requirements of this paragraph (APD has two categories of force), the policy is not complete and has not been approved by the monitoring team.

### Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.36 Assessing Compliance with Paragraph 49: Responsibility for Force Investigations

Paragraph 49 stipulates:

**Under the force classification procedures, serious uses of force shall be investigated by the Internal Affairs Bureau, as described below. When a serious use of force or other incident is under criminal investigation by the Multi-Agency Task Force, APD's Internal Affairs Bureau 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 Bureau, as appropriate and in accordance with applicable laws, to ensure timely and thorough administrative investigations of serious uses of force. Uses of force that do not rise to the level of serious uses of force or that do not indicate apparent criminal conduct by an officer will be reviewed by the chain of command of the officer using force.**

#### Methodology

During the second reporting period, members of the monitoring team reviewed policies proposed by APD in response to this paragraph, and found them to be insufficient in terms of their guidance and operational requirements. Those policies were returned to APD for further work consistent with the monitoring team's guidance.

#### Results

APD SOP 2-54 Use of Force Reporting and Supervisory Force Investigation Requirements (Draft: November 13, 2015) is under concurrent review and revision by the monitor, and the Parties. Approval is anticipated shortly, which may bring APD into Primary Compliance on the requirements in Paragraphs 45-59. APD should be cautious to ensure that ALL interrelated use of force and force investigation policies are consistent in message and meet the requirements of the CASA. Specifically, APD needs to ensure that this directive is aligned with draft SOP 2-31 Investigation of Officer-involved Serious Use of Force, In-custody Deaths (undated), Bureau SOP 2-05 Internal Affairs Division (Draft: November 13, 2015), and the Multi-Agency Task Force operating agreement.

Finally, on October 20, 2015, APD instituted Departmental Special Order 15-91 that mandates that all Use of Force Investigations shall follow CASA reporting requirements. Distribution of organizational expectations in this manner, particularly without underlying policy and training, serves to put the organization on notice, but should not be relied upon to effectively implement meaningful change. The complexities of the CASA are still being sifted through at the command level, therefore, expecting front line and mid-level

supervisors to accurately interpret and implement the terms of the CASA as a result of SO 15-91 is not realistic.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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 the use of force to initiate the force investigation and ensure that the use of force is classified according to APD's force classification procedures. For serious uses of force, the supervisor shall ensure that the Internal Affairs Bureau is immediately notified and dispatched to the scene of the incident.**

### Methodology

Given the difficulty of establishing data transmission protocols early in the monitoring process, the monitoring team was able to review fully only a very small sample of OBRD videos available to APD supervisory personnel. What video that was transmitted to the monitoring team dealt with incidents that occurred prior to the time that approved revised APD policy on use of force and supervision and investigation of use of force incidents.

### Results

APD SOP 2-54 Use of Force Reporting and Supervisory Force Investigation Requirements (Draft: November 13, 2015) is under concurrent review and revision by the monitor, DOJ, and APD staff. Approval may bring APD into Primary Compliance on the requirements in Paragraphs 45-59. APD should be cautious to ensure that ALL interrelated use of force and force investigation policies are consistent in message and meet the requirements of the CASA. Specifically, APD needs to ensure that this directive is aligned with draft SOP 2-31 Investigation of Officer-involved Serious Use of Force, In-custody Deaths (undated), Bureau SOP 2-05 Internal Affairs Division (Draft: November 30, 2015), and the Multi-Agency Task Force operating agreement.

Finally, on October 20, 2015, APD instituted Departmental Special Order 15-91 that mandates that all Use of Force Investigations shall follow CASA reporting requirements. Distribution of organizational expectations in this manner, particularly without underlying policy and training, may serve to put the organization on notice, but should not be relied upon to effectively implement meaningful change. The complexities of the CASA are still being sifted through at the command level, therefore, expecting front line and mid-

level supervisors to accurately interpret and implement the terms of the CASA as a result of SO 15-91 is not realistic.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

### Methodology

Given the difficulty of establishing data transmission protocols early in the monitoring process, the monitoring team was able to review fully only a very small sample of OBRD videos available to APD supervisory personnel. The video that was transmitted to the monitoring team dealt with incidents that occurred prior to the time that approved revised APD policy existed concerning use of force and supervision and investigation of use of force incidents.

APD SOP 2-54 Use of Force Reporting and Supervisory Force Investigation Requirements (Draft: November 13, 2015) is under concurrent review and revision by the IM, DOJ, and APD staff. Approval is expected shortly, which may bring APD into Primary Compliance on the requirements in Paragraphs 45-59. APD should be cautious to ensure that ALL interrelated use of force and force investigation policies are consistent in message and meet the requirements of the CASA. Specifically, APD needs to ensure that this directive is aligned with draft SOP 2-31 Investigation of Officer-involved Serious Use of Force, In-custody Deaths (xx/xx/xx), Bureau SOP 2-05 Internal Affairs Division (Draft: 11/30/15), and the Multi-Agency Task Force operating agreement.

Finally, on October 20, 2015, APD instituted Departmental Special Order 15-91 that mandates that all Use of Force Investigations shall follow CASA reporting requirements. Distribution of organizational expectations in this manner, particularly without underlying policy and training, serves to put the organization on notice, but should not be relied upon to effectively implement meaningful change. The complexities of the CASA are still being sifted through at the command level, therefore, expecting front line and mid-level supervisors to accurately interpret and implement the terms of the CASA as a result of SO 15-91 is not realistic.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 52 stipulates:

**For all supervisory investigations of uses of force, the supervisor shall:**

**a) Respond to the scene, examine all personnel and subjects of use of force for injuries, interview the subject(s) for complaints of pain after advising the subject(s) of his or her rights, and ensure that the officers and/or subject(s) receive medical attention, if applicable**

**b) Identify and collect all relevant evidence and evaluate that evidence to determine whether the use of force was consistent with APD policy and identifies any policy, training, tactical, or equipment concerns;**

**c) Ensure that all evidence to establish material facts related to the use of force, including audio and video recordings, photographs, and other documentation of injuries or the absence of injuries is collected;**

**d) Ensure that a canvass for, and interview of, witnesses is conducted. In addition, witnesses are to be encouraged to provide and sign a written statement in their own words;**

**e) Ensure that all officers witnessing a use of force incident by another officer provide a use of force narrative of the facts leading to the use of force;**

**f) Separate all officers involved in a use of force incident until each has been interviewed and never conduct group interviews of these officers;**

**g) 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;**

**h) 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;**

**i) Utilize on-body recording systems to record all interviews;**

**j) Review all use of force narratives and ensure that all Use of Force Reports include the information required by this Agreement and APD policy;**

**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;**

**m) Obtain a unique tracking number; and**

**n) Where a supervisor determines that there may have been misconduct in the use of force, immediately notify the Area Commander and the Internal Affairs Bureau.**

### Methodology

Given the difficulty of establishing data transmission protocols early in the monitoring process, the monitoring team was able to review fully only a very small sample of OBRD videos available to APD supervisory personnel. The video that was transmitted to the monitoring team dealt with incidents that occurred prior to the time that approved revised APD policy existed concerning use of force and supervision and investigation of use of force incidents.

APD SOP 2-54 Use of Force Reporting and Supervisory Force Investigation Requirements (Draft: November 13, 2015) is under concurrent review and revision by the IM, DOJ, and APD staff. Approval is expected shortly, which may bring APD into Primary Compliance on the requirements in Paragraphs 45-59. APD should be cautious to ensure that ALL interrelated use of force and force investigation policies are consistent in message and meet the requirements of the CASA. Specifically, APD needs to ensure that this directive is aligned with draft SOP 2-31 Investigation of Officer-involved Serious Use of Force, In-custody Deaths (xx/xx/xx), Bureau SOP 2-05 Internal Affairs Division (Draft: 11/30/15), and the Multi-Agency Task Force operating agreement.

Finally, on October 20, 2015, APD instituted Departmental Special Order 15-91 that mandates that all Use of Force Investigations shall follow CASA reporting requirements. Distribution of organizational expectations in this manner, particularly without underlying policy and training, serves to put the organization on notice, but should not be relied upon to effectively implement meaningful change. The complexities of the CASA are still being sifted through at the command level, therefore, expecting front line and mid-level supervisors to accurately interpret and implement the terms of the CASA as a result of SO 15-91 is not realistic.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 53 stipulates:

**Each supervisor shall complete and document a supervisory force investigation Force Report within 72 hours of completing the on-scene investigation. 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

In IMR-1, the monitor wrote the following referring to paragraph 53 compliance:

> "Members of the monitoring team reviewed available OBRD video for indication of compliance with this task. Incidents recorded by OBRDs for the sample selected were tested against the requirements of this paragraph of the CASA. As with any new system, the finer aspects of supervisory review needs fine tuning to bring APD field supervisory review into compliance. This fine-tuning will require revision to the APD OBRD policies governing supervisory processes of reviewing of OBRD videos, and investigating field force applications. The monitoring team did note the occasional use of 'boilerplate" language (which should have been caught and corrected by field supervisors reviewing the given use of force incident reports, but were not); noted occasions during which field supervisors did not use their OBRD to video witness statements; observed that few supervisors appeared to analyze use of force incidents for opportunities to use de-escalation techniques to ***avoid*** the need for use of force; both the supervisory assessments and the field use of force reports are "blank page" documents rather than carefully thought out **systems** designed to specifically collect information necessary to improve use of force decision-making and processes employed by field personnel; the existing use of force reporting system is flawed in that it does not clearly note, identify, and locate the existence of video available to

supervisors, managers and policy-makers to critique, strengthen, and improve APD use of force practices. For example a "one key" search for all available OBRD video for a given incident, either by arrest report number, offense number, or other unique identifier would drastically reduce the number of supervisory man-hours required to implement and use the OBRD system. As it stands, the system would be, at best, difficult for supervisors to use."

No discernable changes to the processes of use of force reporting or supervisory reviews of use of force have been made since the monitor wrote the quoted paragraph.

**Results**

APD SOP 2-54 Use of Force Reporting and Supervisory Force Investigation Requirements (Draft: November 13, 2015) is under concurrent review and revision by the IM, DOJ, and APD staff. Approval is expected shortly, which may bring APD into Primary Compliance on the requirements in Paragraphs 45-59. APD should be cautious to ensure that ALL interrelated use of force and force investigation policies are consistent in message and meet the requirements of the CASA.

Finally, on October 20, 2015, APD instituted Departmental Special Order 15-91 that mandates that all Use of Force Investigations shall follow CASA reporting requirements. Distribution of organizational expectations in this manner, particularly without underlying policy and training, serves to put the organization on notice, but should not be relied upon to effectively implement meaningful change. The complexities of the CASA are still being sifted through at the command level, therefore, expecting front line and mid-level supervisors to accurately interpret and implement the terms of the CASA as a result of SO 15-91 is not realistic.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 54 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.**

### Methodology

Members of the monitoring team reviewed available OBRD video for indication of compliance with this task. Incidents recorded by OBRDs for the sample selected were tested against the requirements of this paragraph of the CASA, and screened for "command presence" in supporting memoranda documenting command review, assessment, and, where needed, correction through counseling, re-training, or discipline.

### Results

In IMR-1, the monitor wrote the following referring to paragraph 53 compliance: "The monitoring team saw no indication of an active 'chain of command' presence in the process of supervisory reporting of uses of force by APD personnel. Too many procedural, reporting, and context errors (e.g. reports exhibiting a lack of precedent for a given use of force, etc.) existed in the field reporting process of same to indicate a serious, well-trained, and vigilant management cadre (see the discussions in the paragraphs immediately preceding). In fact, the monitoring team is of the opinion that the current use of force system is too cumbersome to allow meaningful managerial review."

**No discernable changes to the processes of use of force reporting or supervisory reviews of use of force have been noted since the monitor wrote the quoted paragraph.**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 55 stipulates:

**Where the findings of the Use of Force Report are not supported by a preponderance of the evidence, the supervisor's chain of command shall document the reasons for this determination and shall include this documentation as an addendum to the original investigation. The supervisor's superior shall take appropriate action to address the inadequately supported determination and any investigative deficiencies that led to it. Commanders shall be responsible for the accuracy and completeness of Use of Force Reports prepared by supervisors under their command.**

### Methodology

Members of the monitoring team reviewed use of force reports provided pursuant to requests documented in paragraphs 52-54 above. Those uses of force occurred prior to departmental policy being developed, staffed, and provided to the monitor for review and comment. As such, the monitor cannot

opine about the effectiveness of policy or supervision related to this paragraph.

This is the second straight reporting period in which the monitoring team has been unable to assess performance due to lack of applicable policy. While the policy governing Force Review is "not yet due," it is a critical policy and should be completed at the earliest opportunity.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 56 stipulates:

**Where a supervisor repeatedly conducts deficient supervisory force investigations, 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 investigation immediately and notify the Internal Affairs Bureau and the Chief. The Internal Affairs Bureau shall immediately take over the administrative.**

**Methodology**

See "Results" immediately below.

**Results**

The current use of force evaluation system is too new to include artifacts of "repeated deficient supervisory force investigations." More data over a longer period of time will be required to assess the "repeatedly" portion of this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.44 Assessing Compliance with Paragraph 57: Force Review Board

Paragraph 57 stipulates that:

**When the Commander finds that the supervisory force investigation is complete and the findings are supported by the evidence, the investigation file shall be forwarded to the Force Review Board. The Force Review Board shall review the supervisory force**

**investigation to ensure that it is complete and that the findings are supported by the evidence. The Force Review Board shall ensure that the investigation file is forwarded to the Internal Affairs Bureau for recordkeeping.**

### Methodology

The monitoring team found insufficient reportage indicating that the requirements of this paragraph have resulted in Force Review Board findings. Assessment of this paragraph is reserved for future monitoring reports.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 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 investigation 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 investigation or analysis. This assignment or re-assignment shall be explained in writing.**

### Methodology

The monitoring team found insufficient reportage indicating that the requirements of this paragraph have resulted in Force Review Board findings. Assessment of this paragraph is reserved for future monitoring reports.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 59 stipulates:

**Where, after a supervisory force investigation, 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.**

### Methodology

The monitoring team reviewed a sample of completed supervisory force investigations completed by APD personnel for incidents that would be applicable under this paragraph. One such incident was found and, while remedial training was assigned, the monitoring team found the training to have been poorly justified, poorly delivered, and inadequately documented and followed up (See sections 4.7.33, above).

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.47 Assessing Compliance with Paragraph 60: IAB Force Review

Paragraph 60 stipulates that:

**The Internal Affairs Bureau shall respond to the scene and conduct investigations of serious 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 Bureau by the Chief. In cases where the Internal Affairs Bureau initiates a criminal investigation, it shall ensure that such investigation remains separate from and independent of any administrative investigation. In instances where the Multi-Agency Task Force is conducting the criminal investigation of a serious use of force, the Internal Affairs Bureau shall conduct the administrative investigation.**

### Methodology

The monitoring team is cognizant of the fact that the APD internal affairs process, and thus its supporting policies and procedures, are still under significant revision by the APD. Department Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitor has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: December 17, 2015), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: December 17, 2015), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Because of the

crucial need for clear, consistent policy, the monitoring team recommends that APD review this set of policies concurrently.

These policies are critical components in the APD's system for use of force reporting and investigations.

### Results

The IA policy, and other related policies were incomplete as of the end date of this monitoring period. However, continued collaboration between the monitoring team, DOJ and APD has continued and significant strides have been made as of the writing of this report. The benefits of that progress will be reported in the next IMR.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.48 Assessing Compliance with Paragraph 61: Criminal and Civil Force Investigations

Paragraph 61 stipulates:

**The Internal Affairs Bureau will be responsible for conducting both criminal and administrative investigations, except as stated in Paragraph 60. The Internal Affairs Bureau shall include sufficient personnel who are specially trained in both criminal and administrative investigations.**

### Methodology

The monitoring team is cognizant of the fact that the APD internal affairs process, and thus its supporting policies and procedures, are still under significant revision by the APD. Department Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitor has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: December 17, 2015), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: December 17, 2015), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Because of the

crucial need for clear, consistent policy, the monitoring team recommends that APD review this set of policies concurrently.

These policies are critical components in the APD's system for use of force reporting and investigations.

**Results**

The IA policy, and other related policies were incomplete as of the end date of this monitoring period. However, continued collaboration between the monitoring team, DOJ and APD has continued and significant strides have been made as of the writing of this report. The benefits of that progress will be reported in the next monitor's report.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.49 Assessing Compliance with Paragraph 62: Revision of IAB Manual

Paragraph 62 stipulates:

> **Within six months from the Effective Operational Date, APD shall revise the Internal Affairs Bureau 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.**

**Methodology**

The monitoring team has reviewed and commented upon existing drafts of the Internal Affairs manual and related policies. At this point, the team has not approved the IA policy manual. In addition, the team finds the policies themselves to be difficult to read and understand, and by extension difficult to train. The monitoring team will continue to work with the Parties to develop an acceptable policy formation and documentation process that results in clear, concise, "trainable" and enforceable policy, articulated successfully in the IA policy manual.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.50 Assessing Compliance with Paragraph 63: Staffing IAB

Paragraph 63 stipulates:

**Within ten months from the Effective Date, APD shall ensure that there are sufficient trained personnel assigned to the Internal Affairs Bureau to fulfill the requirements of this Agreement. APD shall ensure that all serious 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 Bureau.**

**Methodology**

The monitoring team is cognizant of the fact that the APD internal affairs process, and thus its supporting policies and procedures, are still under significant revision by the APD. Department Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitor has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: December 17, 2015), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: December 17, 2015), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Because of the

crucial need for clear, consistent policy, the monitoring team recommends that APD review this set of policies concurrently.

These policies are critical components in the APD's system for use of force reporting and investigations.

### Results

The IA policy, and other related policies were incomplete as of the end date of this monitoring period. However, collaboration between the monitoring team, DOJ and APD has continued and significant strides have been made as of the writing of this report. The benefits of that progress will be reported in the next IMR.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.51 Assessing Compliance with Paragraph 64: Training IAB Personnel

Paragraph 64 stipulates:

**Before performing force investigations, Internal Affairs Bureau 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. Internal Affairs Bureau personnel shall also receive force investigation annual in-service training.**

### Methodology

The monitoring team reviewed several documents that varied markedly in the type and specificity of training. There does not appear to be a systematic, coherent approach to APD's specification of training for IAD investigators. For instance, the draft FIT SOP includes an extensive list of subjects and courses that investigators should complete. Some of the listed courses do not appear essential and the types of training are poorly differentiated. APD should create meaningful categories of training to structure the training requirements, which might include Mandatory, Advanced, and Professional Development. It should also distinguish between APD-designed and delivered training and training provided by outside vendors. A brief rationale should support inclusion of particular subjects and courses. These are common elements in any position-specific training plan. In contrast to the training listed in the FIT SOP, the list in the IRT Bureau SOP is more limited, apparently, in scope and detail. In short, IA training tends to miss the key elements often noted in reviews of APD managerial processes: specificity of requirements (knowledge, skills and

abilities, or KSAs) and a thoughtful development of how, when, and in what manner those assigned to IA should and will be guided through the progression of available training.

The monitoring team also reviewed training records for IA investigators from June 1-November 30, 2015. Seven investigators, including the IAD Lieutenant, attended nine different diverse courses. There appears to be no coherency to the training content, nor is there any apparent progression from basic to higher levels of training. The monitoring team has seen no evidence of a training plan that outlines in detail the progression from introductory, to specialized, to supervisory work processes and quality control modalities.

**Results**

Several things stood out upon close examination of the course list and the providers. First, utilizing multiple providers on the same subject creates the potential for serious conflicts and inconsistencies across courses, both in terms of substantive content and tone. The second is particularly important: The list of courses is not embedded in any sort of APD formal training plan that differentiates course levels and structures the progression of an investigator through a series of increasingly more advanced courses to ensure mastery of subject matter knowledge and skills. Third, the seemingly random nature of the course selections does not accord with the principle that some courses should be pre-requisites for later courses. These points are essentially matters of curriculum development and require a determination of the optimal learning pathway that should be followed in a course of study.

Tone or "optics" is an equally important consideration. The evaluation of appropriateness of various training options for IAD investigators is the responsibility of APD. Hence, it has the responsibility to formulate detailed training plans for all of its positions and then develop in-house courses or rely upon outside providers to fulfill those plans. The starting point in this process is the conduct of a formal needs assessment, the identification of suitable programming, and the development of a rubric to evaluate potential courses. An important question in this process is whether in-house options are viable and superior to outside ones. This is an especially important consideration when "tone", philosophy, and other special qualities (i.e. CASA requirements) are essential. Agencies similar in size to APD usually take such an approach because they typically possess the requisite know-how and talent, and have on-going training needs that are difficult to meet through outside providers. This is particularly true in APD's case, since, for example only, the Use of Force policy currently under development at APD includes elements not normally found in many police agencies, e.g., the minimal use of force standard and the prohibition against shooting at vehicles.

Tone is a difficult parameter to assess, but the monitoring team identified several issues within the list of providers that might be of concern in the

context of the DOJ findings letter and CASA requirements. First, the Executive Director of one of the providers recently testified in the Boyd preliminary hearing on behalf of APD officers. In effect, he testified in opposition to the prosecutor and the City of Albuquerque. This is clearly a matter of "optics" or appearances; the monitoring team in no way expresses any opinion about the validity of the person's expert witness testimony or his professional credentials. The "optics," however, are problematic. Second, another course embodies the warrior mentality in police survival training and some of the material contains characterizations that could be viewed as antagonistic to the spirit of the CASA. Again, we are not opining on the validity of either the training content or its central theme. Our point is that APD must develop a vetting process for outside courses that encompasses a range of important considerations. Such issues should be regularly treated in APD's management training in general, and particularly in its IA training.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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 or force indicating apparent criminal conduct by an officer to the Multi-Agency Task Force for investigation.**

### Methodology

The monitoring team has reviewed several departmental orders related to this section of the CASA. Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitoring team has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: 12/17/15), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: 1/2/17/15), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from the IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Because of the

crucial need for clear, consistent policy, the monitoring team recommends that APD review this entire set of policies concurrently.

**Results**

These policies are critical components in the APD's system for use of force reporting and investigations. They are not yet due.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.53 Assessing Compliance with Paragraph 66: MATF Assistance to IAB

Paragraph 66 stipulates:

> **To ensure that criminal and administrative investigations remain separate, APD's Violent Crimes Section may support the Internal Affairs Bureau or the Multi-Agency Task Force in the investigation of any serious 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.**

**Methodology**

Draft Procedural Order 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (undated) provides for such referrals. The reconciliation of all organizational policies, and the completion of the IA Division Manual, and submission of these revisions to the monitoring team and to DOJ for review approval will be required to meet compliance with this paragraph. ***The monitoring team perceives this as a critical path need.***

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.54 Assessing Compliance with Paragraph 67: Notice to External Agencies of Criminal Conduct in Use of Force

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.**

### Methodology

The monitoring team has reviewed several departmental orders. Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitoring team has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: December 11, 2015), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: December 17, 2015), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from the IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Because of the crucial need for clear, consistent policy, the monitoring team recommends that APD review this entire set of policies concurrently. ***The monitoring team perceives this as a critical path need.***

### Results

These policies are critical components in the APD's system for use of force reporting and investigations. Revision of these critical components of the APD policy system should receive a top priority.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

**If the Internal Affairs Bureau determines that a case will proceed criminally, or where APD requests a criminal prosecution, the Internal Affairs Bureau 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 investigation shall be held in abeyance unless specifically authorized by the Chief in consultation with the agency conducting the criminal investigation.**

### Methodology

The monitoring team has reviewed several departmental orders. Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitoring team has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: December 17, 2015), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: December 17, 2015), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 document, the Force Investigation Team (FIT) has been relocated from the IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Because of the crucial need for clear, consistent policy, the monitoring team recommends that APD review this entire set of policies sequentially, first and then assess the entire set to ensure congruency. Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

**Results**

These policies are critical components in the APD's system for use of force reporting and investigations. Revision of these critical components of the APD policy system should receive a top priority.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 69 stipulates:

> **In conducting its investigations of serious uses of force, as defined in this Agreement, the Internal Affairs Bureau 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 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 serious use of force by another officer provide a use of force narrative of the facts leading to the use of force;**

**e) ensure that all officers involved in a use of force incident remain separated until each has been interviewed and never conduct group interviews of these officers;**

**f) review all Use of Force Reports to ensure that these statements include the information required by this Agreement and APD policy;**

**g) 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;**

**h) 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;**

**i) record all interviews;**

**j) consider all relevant evidence, including circumstantial, direct, and physical evidence, as appropriate, and make credibility determinations, if feasible;**

**k) 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**

**l) train all Internal Affairs Bureau force investigators on the factors to consider when evaluating credibility, incorporating credibility instructions provided to jurors.**

## Methodology

The monitoring team has reviewed several departmental orders. Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitoring team has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: December 17, 2015), Bureau SOP 2-09 Investigative Response Team

(IRT) (Draft: December 17, 2015), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from the IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Because of the crucial need for clear, consistent policy, the monitoring team recommends that APD review this entire set of policies concurrently.

**Results**

These policies are critical components in the APD's system for use of force reporting and investigations. Revision of these critical components of the APD policy system should receive a top priority. Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 70 stipulates that:

**The Internal Affairs Bureau 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**

The monitoring team has reviewed several departmental orders. Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitoring team has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: December 17, 2015), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: December 17, 2015), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been

relocated from the IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

**Results**

These policies are critical components in the APD's system for use of force reporting and investigations. Revision of these critical components of the APD policy system should receive a top priority.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.58 Assessing Compliance with Paragraph 71: IAB Investigative Timelines

Paragraph 71 stipulates that:

**The Internal Affairs Bureau shall complete administrative investigations within two 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 Internal Affairs Bureau through consultation with the Chief or by the Chief. At the conclusion of each use of force investigation, the Internal Affairs Bureau 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 Internal Affairs Bureau's independent review of the facts and circumstances of the incident; □**

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

**c) the names of all other APD officers or employees witnessing the use of force; □**

**d) the Internal Affairs Bureau'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.**
□

## Methodology

The monitoring team has reviewed several departmental orders. Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitoring team has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: 12/17/15), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: 1/2/17/15), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from the IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

## Results

These policies are critical components in the APD's system for use of force reporting and investigations. Revision of these critical components of the APD policy system should receive a top priority.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.59 Assessing Compliance with Paragraph 72: IAB Report Review

Paragraph 72 stipulates:

**Upon completion of the Internal Affairs Bureau investigation report, the Internal Affairs Bureau investigator shall forward the report through his or her chain of command to the commanding officer of the Internal Affairs Bureau. The Internal Affairs Bureau 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 Bureau 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.**

### Methodology

The monitoring team has reviewed several departmental orders. Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitoring team has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: December 17, 2015), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: December 17, 2015), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from the IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

### Results

These policies are critical components in the APD's system for use of force reporting and investigations. Revision of these critical components of the APD policy system should receive a top priority.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.60 Compliance with Paragraph 73: IAB Findings Not Supported by Preponderance of the Evidence

Paragraph 73 stipulates that:

**For administrative investigations, where the findings of the Internal Affairs Bureau investigation are not supported by a preponderance of the evidence, the Internal Affairs Bureau 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 Bureau shall take appropriate action to address any inadequately supported determination and any investigative deficiencies that led to it. The Internal Affairs Bureau commanding officer shall be responsible for the accuracy and completeness of investigation reports prepared by the Internal Affairs Bureau.**

### Methodology

The monitoring team has reviewed several departmental orders. Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitoring team has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: 12/17/15), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: February 17, 2015), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from the IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

### Results

These policies are critical components in the APD's system for use of force reporting and investigations. Revision of these critical components of the APD policy system should receive a top priority.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 74 stipulates that:

**Where a member of the Internal Affairs Bureau repeatedly conducts deficient force investigations, the member shall receive the appropriate corrective and/or disciplinary action, including training or removal from the Internal Affairs Bureau 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.**

### Methodology

The monitoring team has reviewed several departmental orders. Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitoring team has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: 12/17/15), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: 1/2/17/15), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from the IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

### Results

These policies are critical components in the APD's system for use of force reporting and investigations. Revision of these critical components of the APD policy system should receive a top priority.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.62: Assessing Compliance with Paragraph 75: IAB Reports Sent to Force Review Board

Paragraph 75 stipulates that:

**When the commanding officer of the Internal Affairs Bureau 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 copy to the Chief.**

### Methodology

The monitoring team has reviewed several departmental orders related to this task. Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitoring team has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: December 17, 2015), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: December 17, 2015), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from the IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

**Results**

These policies are critical components in the APD's system for use of force reporting and investigations. Revision of these critical components of the APD policy system should receive a top priority.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 76 stipulates that:

**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 Internal Affairs Bureau for further investigation or analysis. This assignment or re-assignment shall be confirmed in writing.**

The monitoring team notes that this provision of the CASA is ***permissive,*** i.e., "investigations... may be returned." No actions by the Chief of Police resulting in referrals to the MATF or the FBI were noted this reporting period. Further, the monitoring team has reviewed several departmental orders that touch upon this paragraph of the CASA. Special Order 15-91 Use of Force Investigative Procedures, was issued on October 20, 2015, and made

mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitoring team has issued a schedule for reviewing all currently submitted CASA-required APD policy drafts over the next several weeks, including SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: December 17, 2015), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: December 17, 2015), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from the IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

Paragraph 77 stipulates that:

**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 Bureau 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.**

**Methodology**

The monitoring team has reviewed several departmental orders. Special Order 15-91 Use of Force Investigative Procedures was issued on October 20, 2015, and made mandatory operational compliance with CASA requirements for reporting and investigating uses of force, which encompasses Paragraphs 41-77. Additionally, the monitoring team has issued a schedule for reviewing all CASA-required APD policy drafts over the next several months, including

SOP 2-31 Investigation of Officer-Involved Serious Use of Force and In-Custody Deaths (Draft: Undated), Bureau SOP 2-05 Internal Affairs Division (Draft: December 17, 2015), Bureau SOP 2-09 Investigative Response Team (IRT) (Draft: December 17, 2015), and the Multi-Agency Task Force agreement (MATF), which is also under revision. Further, according to a September 2015 memo, the Force Investigation Team (FIT) has been relocated from the IAD and replaced the Homicide Unit in the MATF. As we understand the shift, FIT remains in a formative stage and will eventually issue its own SOP (2-09). Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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 all uses of force. The Force Review Board shall be comprised of at least the following members: Assistant Chief of the Professional Accountability Bureau, the Deputy Chief of the Field Services Bureau, the Deputy Chief of the Investigations Bureau, a Field Services Major, the Training Director, and the Legal Advisor. The Force Review Board shall conduct timely, comprehensive, and reliable reviews of all use of force investigations. The Force Review Board shall:**
>
> **a) review each use of force investigation completed by the Internal Affairs Bureau 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 Bureau investigation, shall not be present;**
>
> **c) review a sample of supervisory force investigations that have been completed and approved by Commanders every 90 days to ensure that the investigations are complete and timely and that the findings are supported by a preponderance of the evidence;**
>
> **d) 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;**

**e) 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;**

**f) 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;**

**g) 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, or 15 days of the review of sample supervisory force investigation; and**

**h) 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 determined that the most current draft of SOP 3-67 Critical Incident Review Board (CIRB), which we believe has been retitled as Force Review Board (FRB), is under review internally and has not yet been submitted to the monitor. The CIRB SOP dates back to September 26, 2002 and, although CIRB duties were somewhat similar, it was not a standing entity with regular review and reporting duties. Notwithstanding the status of the SOP, APD has implemented the FRB and it now conducts regular reviews as stipulated in the CASA. The draft language of policy that the monitoring team presently has--- Force Review Board (March 1, 2015) --- states that the FRB shall review all uses of force. The term "all" should be clarified, as the policy goes on to mention only Serious Uses of Force. Board procedures, particularly the requirements that the investigator present the case before the Board, if the subject officer does not appear, and the use of a standard FRB report template, are sound and consistent with industry standards. The monitoring team will attend one or more future Boards to witness a sample of reviews first-hand and assess operational compliance with CASA requirements.

Until final policy on FRB operations is approved, the actual contours of the process will remain in flux, as APD adds further refinements. This is to their credit, as several of the recent refinements, including the Force Review Board Evaluation Form, are especially sound and reflect a clear commitment to thorough, professional reviews.

During this reporting period, the monitoring team reviewed several Quarterly FRB Reports, along with a sample of Supervisory Force Investigations on which the FRB held hearings and issued reports. Pursuant to the CASA, the FRB is required to "---review a sample of supervisory force investigations that have been completed and approved by Commanders every 90 days to ensure that the investigations are complete and timely and that the findings are supported by a preponderance of the evidence...." The Board, in fulfillment of this requirement, completed such reviews for the second and third quarters in 2015. This was in addition to its regular monthly duty to review completed use of force cases within 45 days.

The monitoring team reviewed the FRB's Use of Force Review, 3rd Quarter, October 20, 2015, which is a PowerPoint presentation, and the corresponding Supervisory Use of Force Investigations upon which the report was based. The monitoring team confined its review to the 3rd Quarter Report and the accompanying reports because they fell within the designated reporting period for IMR-2.

The FRB presentation lists thirty categories of error ("No Errors" is one of the thirty) found in its review of four of forty-two supervisory investigations completed during the quarter, for a sampling rate of 10%. It is not clear how the sample was drawn or whether it was stratified to ensure the inclusion of different types of force. Moving forward, it will be important to articulate the methodology for choosing samples, to demonstrate there was either a case specific reason for a review or the sample was random. The sample the monitoring team reviewed included three (3) Taser incidents, one (1) Show of Force (firearm), and one (1) Takedown/Leg Sweep. The Show of Force occurred during one of the Taser incidents, which involved multiple activations and warranted classification and investigation as a serious use of force under CASA guidelines. The case was not elevated to APD's CIRT/IA, which the Board did in fact note prominently in its presentation. However, this incident occurred before issuance of Special Order 15-91 Use of Force Investigative Procedures (October 20, 2015), which mandated compliance with CASA force reporting and investigation requirements.

The list of errors consists largely of deficiencies in completing the Use of Force Data Form, rather than such things as the articulation of legal justification, de-escalation efforts, or the decision-making process that led up to the use of a particular force option, though these are covered in the Board's reviews. The monitoring team recommends that APD expand upon the existing list to create a comprehensive checklist of error types, particularly with respect to the narrative section, to ensure consistent and systematic reviews.

With respect to the four (4) Board reviews that comprised the sample, the monitoring team has a number of positive observations:

1. In UOF2015-000090 the presentation contains three excerpts from the officers' reports of the incident. All three are underlined to reflect important circumstances justifying the use of force. The articulation by the officers is excellent and warrants explicit mention by the Board to reinforce performance standards and acknowledge excellent work.

2. The Board specifically describes one officer's attempt to de-escalate a volatile situation by shifting the conversation. Though it failed in this particular case, the Board's mention of it is noteworthy.

3. The Board's summarization of "Incident key points" is an excellent means of highlighting important aspects of each case and showing the progression of events leading up to the use of force. It is also a helpful step to ensure that Board members conduct a systematic review of each case.

4. In another Taser case the Board identified several issues of concern, including the officer's use of profanity, his loss of situational awareness, the failure to identify himself clearly as a police officer, and the officer's failure to announce the use of a Taser. These issues were addressed directly and professionally in the Board presentation. The monitoring team plans to review the ultimate disposition of this case during its next visit, particularly with respect to any feedback provided to trainers and field officers.

5. Collectively, the report writing excerpts demonstrated excellent report writing skills by the involved officers---particularly in the articulation of circumstances preceding and justifying the use of force. Not only is it important to assess this issue routinely in Board reviews, but it is equally important to provide feedback to supervisors, trainers, and officers to maintain high standards of performance and recognize excellent work.

6. Moving forward, APD may consider using the FRB for more than identifying compliance with policy and CASA requirements. The FRB will undoubtedly identify cases were performance was either exemplary, or not, and lessons found in those cases may serve as excellent training tools. APD should consider convening a formal working group to evaluate procedural and technical opportunities and limitations to using lapel videos for training purposes. Using internal resources, such as lapel videos, is not inconsistent with the practices of other police agencies. The monitoring team reviewed four cases, and in those cases there are reports and lapel videos that provide examples of officer conduct that would serve as outstanding training tools. Supporting organizational reform and performance expectations by showing APD officers "modeling the way" is something the monitoring team would recommend in recruit, in-service and supervision training.

The monitoring team also made observations that APD should consider as they continue to refine the structure and processes of the FRB:

1. There is little substance or value that can be drawn directly from the Quarterly Use of Force Review form, since the reports provide no insight as to the nature of the case, the type of force under review, what criteria was used to determine how a case was chosen for review, or how issues that were identified were communicated and resolved to relevant APD commands. The newly instituted FRB Evaluation Form includes space to document where issues of concern should be referred; however, the package presented to the monitoring team did not include the formal referrals (Which may or may not have occurred). The monitoring team will review future documentation of FRB meetings to see how the FRB confirms their recommendations are being implemented, thus "closing the loop." Finally, APD should include specific references to policy section titles and excerpts where they identify areas of concern. The collection and aggregation of data for later analysis will benefit from those references. It will also serve to reinforce FRB member competencies and their familiarity with policy requirements. Finally, it will help identify further refinements of the documentation and processes related to the FRB.

2. The FRB Quarterly Report should contain and serve as an all-encompassing document that can draw information from various existing sources. For instance, the FRB PowerPoint and Force Review Board Evaluation Form contain meaningful information. These sources of information should be supporting documents, perhaps captured as an Appendix to the FRB Quarterly Reports. Also, normal law enforcement policy conventions would dictate that reports and forms associated with, and used by, the FRB should be Appendixes to the FRB Procedural Order once it is fully promulgated.

3. Cases reviewed by the FRB in the Second Quarter meeting on September 29, 2015, ranged from April 11, 2015 to May 22, 2015, meaning they were all a minimum of four months old at the time of review, and the Chief of Police did not review and sign the FRB results until December 14, 2015. It is unclear to the monitoring team when the FRB report was completed and forwarded to the Chief of Police. Key organizational leaders consistent with the requirements of this Paragraph were present during the meeting, based on reporting.

4. The FRB reviewed four cases on October 20, 2015, and key organizational leaders were again present. It is evident that the manner in which the FRB evaluates cases is evolving, since a Force Review Board Evaluation Form was introduced into this particular meeting. In one case reviewed by the FRB a concern was raised because CIRT/IA was not notified to respond and investigate a serious use of force case as per the CASA and pending

policy. In the second case, an "Issue of Concern" was raised because a person was subjected to an ECW near traffic, which caused a safety issue for the officers and suspect. In each case reviewers answered a set questions and provided handwritten observations and notes. While training and policy requirements were noted, there still is very little substance or value that can be drawn directly from the Quarterly Use of Force Review, or the new evaluation form, since the reports provide little or no insight as to the nature of the case, relevant circumstances, what criteria was used to determine how a case was chosen for review, or how issues that were identified were communicated and resolved to relevant APD commands. For instance, there is no follow up documentation contained in the FRB record to demonstrate APD has "closed the loop" on policy and/or training recommendations. There is also nothing in the record as to how the issues raised concerning specific officers or supervisors were remediated through training, counseling or discipline.

5. It is unclear if FRB reviews and determinations occur solely from presentations that occur during meetings, or if FRB members are provided all source documentation and accompanying lapel videos prior to FRB meetings. Relying solely on presentations, without reading reports and reviewing full video footage, would limit probing questions and meaningful discussion that will often reveal issues of concern. The monitoring team will obtain additional information on this process in the course of the next site visit.

6. A particular point of interest to the monitoring team occurred in one case, reviewed on October 20, 2015, where the FRB recognized that a serious use of force was not elevated to IA as per the CASA. A notation/recommendation by the FRB included "Utilize Special Orders that comply with (the) Settlement Agreement." That same day APD issued Special Order 15-91 mandating the department follow specific CASA related Paragraphs. From one perspective this is exactly the type of operational responsiveness the monitoring team hopes to see from FRB findings. However, as noted earlier in this report the codification of APD policy, and the complexities of completing that task, are still being discussed at the highest levels of the department. Promulgating SO 15-91 could be received with confusion, and could be inconsistently applied, at the front line levels, without more guidance through fully instituted policies and training. This is not, however, intended to impugn the initiative shown by the FRB, if in fact SO 15-91 was a direct result of the FRB meeting.

7. The FRB reviews and presentation seem geared solely toward the actual use of force, with little documented observations or commentary on the quality of the supervisory investigation or accompanying command reviews. As such, it is unknown what counseling, training or remediation was recommended for supervisors of commanders in cases were the FRB

identified concerns. This is a critical void in monitoring team and, apparently, APD managerial knowledge. This will be addressed in more detail in the third monitoring report.

As noted, the monitoring team reviewed FRB documentation and videos relating to four (4) use of force cases that were evaluated during the Board's 3rd quarter meeting. The review by the monitoring team was somewhat limited, since only short sections of officer lapel videos were included in the package presented to the FRB. The sections of video appear designed to provide the FRB footage parsed from the lapel video immediately before, during and after the application of force in each case. The following comments represent observations made by the monitoring team for each of the four (4) cases:

**Case #1**

APD officers were dispatched to the home of a male subject who was involved in an altercation with a relative. The male was reportedly cutting himself with a knife and making comments that he wanted police officers to shoot him. When the officers arrived they were immediately confronted with a highly volatile and dangerous situation. As the officers approached the home the male subject, carrying a knife and with obvious lacerations to his arm, advanced toward them down the driveway. He said, "Shoot me" several times as the officer responded, "That's not why I'm here." It was clear by a review of the lapel videos that the officers remained calm and immediately began de-escalation techniques to build a rapport with the subject and convince him to discard the knife. The subject made several comments that would reasonably heighten the officers' concern that they were facing an immediate threat. An officer asked the subject to drop the knife several times, but the subject responded, "I'm not dropping the knife. I know I have a weapon. I know that if I come at you, you have to shoot me. I want you to do it." The officers were faced with the possibility that the subject could immediately advance at them or retreat back into his home, where other people could be. A Sergeant arrived on the scene and approached the subject, also making verbal requests that he drop the knife. Shortly after arriving and talking with the subject the Sergeant deployed his ECW (Note – Simultaneously a second officer deployed his Taser as well) and the subject was incapacitated and taken into custody. A total of three ECW cycles were used to take control of the subject. A Sergeant responded to the scene and conducted a supervisory investigation into the matter.

The following observations were made about the FRB review:

1. In the opinion of the monitoring team, this case sets a clear example of professional composure by APD officers in the face of an imminent threat. They were met by a situation that could have easily escalated to the use of

deadly force, and they stood at that threshold for several minutes. Instead, by remaining calm and using de-escalation techniques the situation ended with what the monitoring team would characterize as the "minimum amount of force necessary" to safely take a suspect into custody.

2. The supervisory force investigation into the matter was comprehensive and logically organized, and allows a reader to understand the circumstances of the event, and how the supervisor reached their findings as to whether the force used in the case was objectively reasonable.

3. In this case the APD process of review worked, with CIRT and the FRB self-identifying these issues. During the FRB Quarterly Review these mistakes were flagged and documented. Recommendations for the distribution of a departmental Special Order occurred, as well as recommendations for training topics to be developed by the academy.

4. Command level reviews identified ancillary performance issues, not related to use of force, which were addressed and documented appropriately. However, Command level reviews did fail to recognize two important issues: 1) That three cycles of an ECW constituted a serious use of force and required an immediate response by CIRT/IA (As per the CASA) to investigate the case; and 2) An officer of a higher rank than the sergeant who deployed his ECW would have had to investigate the use of force, notwithstanding the fact the case ultimately was a serious use of force and required a CIRT/IA response. More concerning is the fact that it is entirely unclear what remediation and/or training took place concerning supervisors who missed this critical issues. It's appropriate to note that these requirements did not yet exist in APD's Procedural Order 2-52 Use of Force. This highlights the critical need for movement on policy guiding High-Risk Critical Tasks (HRCT) such as use of force and responding to individuals in crisis.

5. While the monitoring team remains interested in how APD "closes the loop" on some pending recommendations, this case provides several examples of sound tactical performances and supervisory oversight that can be built upon. Likewise, the monitoring team hopes APD continues to self-identify issues and remediate concerns internally.

**Case #2**

APD officers were dispatched to an Albuquerque Fire Department (AFD) station to assist with a male subject who was acting erratically. When officers arrived they engaged the subject, who appeared to be intoxicated. Lapel videos reviewed by the monitoring team show an officer talking with the subject in a calm tone and attempting to deescalate the situation. The subject seems somewhat agitated and became fixated on a paramedic who was

standing in very close proximity to the officers and the subject. In one lapel video you can see the paramedic is holding a cup in his left hand. The subject then begins having a conversation with the paramedic because he (the subject) is upset that the paramedic is drinking from the cup. In short, he threatened the paramedic if he took another drink from the cup. Although obscured by the camera angle, it is apparent that the paramedic takes another drink from the cup he was holding, at which time the subject makes an aggressive movement toward him. The APD officers intervene and ultimately take the subject to the ground and handcuff him.

The following observations were made about the FRB review:

1. The quality of documentation at the officer, supervisory and command levels stands in stark contrast to Case #1. The level of organization and content is of a lesser quality, and the justification for the use of force, in the view of the monitoring team, is not sufficient. Fortunately, CIRT and the FRB identified and documented those shortcomings during their review, citing "conclusory" and "boilerplate" language within the officer reports. These comments are clear indications that the FRB has taken cognizance of the specific language of the CASA.

2. The FRB observations were documented with the newly instituted Force Review Board Evaluation Form, and included a notation of a referral for the development of training by the academy. However, again there is no formal training referral and no indication as to how the FRB will track that their recommendations are acted upon, thus "closing the loop."

3. In reviewing the pre-force sequence of events one issue seemed obvious to the monitoring team that was not addressed at any level, including the FRB. The fact that the officers not only allowed verbal interaction, of the sort observed on the lapel cameras, between the subject and the paramedic was tactically inappropriate and clearly exacerbated the situation in a manner that led to the immediate need to use force. As the subject's irritability increased over the paramedic drinking from the cup, he verbally forecasted for the officers that if the paramedic took another drink there could be a problem. While somewhat equivocal, it appears to the monitoring team that the paramedic taking another drink from his cup was purposely antagonistic. The officers allowing such interaction, and not adequately managing the scene with respect to the paramedic's involvement, certainly failed to deescalate the situation. Nowhere in the record was this issue identified or addressed by APD.

4. The monitoring team is interested in this case to the extent that this pre-force failure on the part of the officers had clear connection to the ultimate need to use force. This case provides an example of how a more extensive version of the officers' lapel videos would benefit the FRB in

reaching its conclusions. That aside, once the subject made the move toward the paramedic there was an immediate need to intervene, and the force used was objectively reasonable in the opinion of the monitoring team.

**Case #3**

The third case involved a surveillance operation by APD detectives that evolved into a traffic stop that led to a brief pursuit and eventual foot chase. The pursuing detective, after aiming his firearm at the suspect's vehicle, ran down the suspect and used his Taser to control him after he turned back on the officer who was just feet behind him. The suspect was wanted for three felony warrants.

The following observations were made about the FRB review:

1. A felony is no longer the relevant "watershed" distinction, as it was subsequent to the *Garner* decision. The important distinction in reviewing use of force cases today is between non-violent and violent felonies. In this case all of the felonies, and the crime that the suspect committed just before the pursuit, were non-violent felonies. Though serious matters, under 4th Amendment law and APD policy, they warrant only the use of intermediate force (the Taser, as in this case) in contrast to violent felonies. This importance of this distinction was also not picked up on by any of the reviewers.

2. Some of the check marks on the FRB form are so faint that they are difficult to pick up on, making review slower and more difficult.

3. The FRB review, including the "Incident key points", did not mention that at one point the detective un-holstered and pointed his firearm at the suspect's vehicle and then at the fleeing suspect. The detective then quickly re-holstered and gave chase, while un-holstering his Taser. The decision not to shoot was sound and the officer's reasoning should have been explored further.

4. The report notes that an "Additional issues of concern" memo was written, but the monitoring team found that only one issue of the four listed was not directly related to the force question. The monitoring team believes that situational awareness, announcements, and tactics (un-holstering his Taser in close proximity to the suspect) are integral aspects of any use of force and should not be dealt with in a side memo. Accordingly, we recommend that APD review use of such memos to ensure that force-related issues are not inappropriately shunted to another organizational track. (Note - We reviewed another case in the first reporting period in which an "additional issues" memo was used inappropriately)

5. One reviewer noted that the suspect "raised one arm in what could be construed as an attack posture." This, however, is the reviewer's perception based upon looking at the video. It, importantly, was NOT one of the circumstances that the officer, at least according to his report, relied upon at the moment that he decided to use his Taser. The monitoring team reviewed the video and concluded that the interpretation of the slight, upward arm movement that can be seen as the suspect turns back toward the officer could be highly subjective. In any event, because it was NOT part of the officer's rationale for using force, the reviewer's interpretation should carry little if any weight.

6. An officer describes how the officers were dressed and equipped. This is an important issue in many use of force cases, particularly in plainclothes operations. It should be assessed routinely in all reviews.

7. The reporting officers use "conclusory" language at multiple points, and never enumerates specific behaviors that justify such conclusions. These include "began to resist my attempts", "faced me in an aggressive manner", "as he continued to struggle", "where he began to resist them [two detectives]", and "out of harms (sic) way".

8. The reviewing lieutenant, in his "additional concerns" memo does an excellent job of analyzing the question of the officer choosing between using an empty-hand technique or his Taser, particularly how the un-holstered Taser in one hand essentially precluded use of an empty-hand technique. This provides an excellent example of the reasoning process that investigators and later reviewers need to follow in assessing whether the "minimum amount of force" was used in a particular case. The lieutenant also mentions the pointing of a firearm in his memo, but doesn't elaborate further on that issue.

9. The Supervisory Force Investigation was conducted by a lieutenant, one step above the sergeant who was the subject officer. This complies fully with good practice, agency policy, and CASA requirements.

10. There is no mention made of including uniformed officers in the operational plan. The monitoring team appreciates that this is sometimes infeasible, but it should always be a point of review in such cases where identification may be an issue.

**Case #4**

The final case in the FRB's third quarter sample of 2015 Supervisory Force Investigations is similar to the third, as it involved detectives in a buy-bust operation that evolved into a foot chase when the arrest plan failed. After a

foot pursuit and several attempts to "grab" the suspect, one of the pursuing detectives used his Taser to control the suspect, who was rapidly moving into a busy area with traffic and pedestrians. The pursuing officers repeatedly identified themselves by yelling, "Police, Stop". Prior to using his Taser, the detective announced, "Taser." The suspect had previously escaped officers three times, was on probation for armed robbery, and had just committed another felony.

The following observations were made about the FRB review:

1. This is a particularly straightforward case that was resolved quickly after a brief foot chase with no side issues. The use of force was found justifiable, based upon all of the circumstances, including the suspect's record of escapes, felony violations, and flight into a business area with substantial vehicle and foot traffic.

2. There were two actual "grabs", which probably would qualify as empty-hand techniques and a reportable use of force under CASA guidelines. However, the investigation occurred prior to the issuance of Special Order 15-91 Use of Force Investigative Procedures on October 20, 2015 that mandated adherence to CASA provisions on the reporting and investigation of uses of force. Under the then-current APD policy, in pertinent part, "...not every application of empty-hand techniques..." was reportable. The investigating supervisor had the discretion to make such a determination, but was required to explain his or her decision in a memo to the Watch Commander. The monitoring team does not know if one was prepared in this case, but there is none in the file provided. This issue is now moot under the terms of the CASA, which are now in full force.

3. As in the above review, there is no distinction made between non-violent and violent felonies, which is now the critical break point in weighing whether a particular level of force is justified in a given set of circumstances.

4. Although the reviewing lieutenant identified the "grabs" as uses of force and found them justifiable, he did not then question if it was procedurally correct for the sergeant, who had attempted one of the "grabs", to conduct the investigation. Under then-current procedures, specifically SOP 2-52-8 Follow-up Investigation Procedures for Non-deadly Use of Force, sub-section 6. A., the responding supervisor [and the primary investigator] to a use of force incident "...shall be of equal rank or higher rank that the rank of the involved officer." Hence, whether under the old policy or the CASA provisions now in force, this issue should have been addressed as a matter of course, whatever its resolution.

APD continues to improve upon a critical component of its use of oversight and management system, specifically the interaction between CIRT and the FRB. Overall, the FRB presentations, quarterly report and related incident reports that the monitoring team reviewed were generally well done and addressed important issues. Continuing to refine the content and outcomes of the FRB reviews, and determining how to track and document FRB recommendations will be an important step moving forward.

The FRB's use of "Incident key points" is a useful way to present salient case issues, but it should be structured to ensure that important information is identified and reported. For instance, after a brief chronology of the incident, key legal considerations (part of the totality of circumstances) should be reviewed. Additional categories might include Operational Planning, Tactics, De-escalation Actions, Announcements and Warnings, Video Evidence, Decision-making (regarding the type and level of force used), Injuries and Medical Care. There may be others that APD regards as essential to a comprehensive review.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.66 Assessing Compliance with Paragraph 79: Annual Use of Force Report

Paragraph 79 stipulates that:

**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;**

**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

APD has created a set of reporting categories that correspond to the sub-sections in Paragraph 79 in its intended stand-alone quarterly and annual use of force reports. These categories are also included in Bureau SOP 2-05 Internal Affairs Division (Draft: November 3, 2015). The monitoring team commends APD for deciding to issue reports on a more frequent basis than annually, as it believes that routine tracking and periodic in-depth analysis are essential in the use of force oversight and management system. Timely, in-depth trend assessments are a critical sub-process within that system. The monitor recently issued a schedule for reviewing all CASA-required APD policy drafts, which includes ultimate review and approval of the IAD draft.

Supplemental breakouts in later pages of the report that the monitoring team reviewed also provide the reviewer with easy-to-comprehend graphics on specific issues and trends. The monitoring team will meet with APD staff during the next reporting period to review how analysis is actually conducted and then used to inform policy, training, and field practice. Additionally, we have received a copy of a CIRT Awareness Report (10/23/15) that was recently issued to alert officers to "lessons learned" from an analysis of the recent fatal shooting of an APD officer. This is an example of both timely, internal incident critique and subsequent timely feedback on critical safety issues to rank-and-file officers. The monitoring team will meet with CIRT staff during its next visit to explore this process in greater depth.

The monitoring team also reviewed a form developed by SWAT to track unit deployments, which provides an excellent starting point for capturing critical data on high-risk deployments. We commend Special Operations staff, once again, for taking the initiative to develop a comprehensive data collection form.

## Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.67 Assessing Compliance with Paragraph 80: Tracking System for Officer Use of Force

Paragraph 80 stipulates that:

**APD shall be responsible for maintaining a reliable and accurate tracking system on all officers' use of force; all force investigations carried out by supervisors, the Internal Affairs Bureau, or Multi-Agency Task Force; and all force reviews conducted by the Force Review Board. APD shall integrate the use of force tracking system with the Early Intervention System database and shall utilize the tracking system to collect and analyze use of force data to prepare the Use of Force Annual Report and other reports, as necessary.**

### Methodology

During its first full site visit, members of the monitoring team spent a substantial amount of time consulting with APD personnel responsible for building and maintaining systems responsive to this task. The fulfillment of requirements in this paragraph depends in great part on the system enhancements referred to under the preceding paragraph. Accordingly, the monitoring team will review these issues once again when it meets with APD staff to assess progress on the data enhancement project in early March, 2016. Supervisory use of force investigations are expected to be completed in a program called MRIAD and then re-submitted into their IAPro database. This duplication in work opens opportunities for mistakes and creates mass inefficiencies. It is the monitoring team's understanding that upgrades to IAPro are expected resolve some of the issues being encountered.

The quality of the APD tracking system will be reliant on the quality of the inputs that exist for that system. The current manner of collecting and documenting use of force, specifically the lack of nimbleness in separating officer data within the Supervisory Use of Force Data Reports and any accompanying reports, needs attention. In the limited review the monitoring team conducted of supervisory use of force investigations during this reporting period, we observed that the collection of accurate data requires a careful and time consuming review of report narratives to identify each officer's actual and potential use of force. It then requires a cross check with OBRD videos to be most accurate. As layers of review occur up to and including the Force Review Board, APD will have to identify a means of capturing data where a higher-level review identifies different or additional types of force being used by an officer during the same event.

The current Use of Force Data Report is a good first step and demonstrates APD's commitment to documentation. With a reworked, automated reporting system APD would create a means of easily documenting each officer who uses force during an incident and the different types of force they used. The narrative would then be a means of a supervisor resolving the force as either appropriate or not.

The tracking system that is ultimately implemented must include capabilities to capture dispositions of use of force cases where an officer is commended, counseled, disciplined or trained. This manner of tracking will benefit APD in that it will demonstrate and ultimately showcase the organization's business processes surrounding use of force.

The monitoring team requested, but has not yet received, policy documents that capture the APD tracking mechanisms. It is highly possible that these documents are currently in the planning stages, and not yet available. The monitoring team will re-visit this systems development in preparation for IMR-3.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

### Methodology

APD continues to operate under the Memorandum of Understanding (October 18, 2014) that the monitoring team reviewed as part of the IMR-1. At that time we found no conflicts between the MOU's provisions and CASA requirements. We also noted that informal training appeared sufficient to familiarize MATF members with the Task Force's terms and operating procedures. The monitoring team is also aware of a December 2015 memo that notes that a revised draft of the MOU "is currently being circulated...and awaiting approval by the involved parties." There is an accompanying draft MOU, which was posted in September 2015, but it is undated and does not identify the main author. Other than a number of one-word margin notes, it is unclear what, if any, substantive changes have been made that might affect CASA compliance.

Because MATF operational issues are addressed in several APD policies currently in the draft stage, APD will achieve compliance when those are

reviewed and approved by the monitor, who recently established a formal schedule for timely review of all APD draft policies required by the CASA. Specifically, two policies---draft SOP 2-31 Investigation of Officer-Involved Serious Uses of Force and In-Custody Deaths (Draft: Undated) and Bureau SOP 2-05 Internal Affairs Division---contain provisions regarding the MATF. Moreover, APD should identify any other policies that are linked by subject matter and include references to the MATF, and tackle those concurrently to ensure uniformity.

Finally, the monitoring team intended to review Officer Involved Shooting (OIS) cases during this reporting period, but because of a POB backlog they were unable to complete a review. The monitoring team encourages a more expedient review of OIS cases so that a meaningful review can occur of MATF responses to such events during the next reporting period.

**Results**

The monitoring team will review both of the above policies, along with the draft MOU now under revision, during the next reporting period, consistent with the monitor's schedule for policy reviews.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 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.**

**Methodology**

APD continues to operate under the Memorandum of Understanding (October 18, 2014) that the monitoring team reviewed as part of the First Independent Monitor's Report. At that time we found no conflicts between the MOU's provisions and CASA requirements. We also noted that informal training appeared sufficient to familiarize MATF members with the Task Force's terms and operating procedures. The monitoring team is also aware of a December 2015 memo that notes that a revised draft of the MOU "is currently being circulated...and awaiting approval by the involved parties." There is an accompanying draft MOU, which was posted in September 2015, but it is

undated and does not identify the main author. Other than a number of one-word margin notes, it is unclear what, if any, substantive changes have been made that might affect CASA compliance.

Because MATF operational issues are addressed in several APD policies currently in the draft stage, APD will achieve compliance when those are reviewed and approved by the IM, who recently established a formal schedule for timely review of all APD draft policies required by the CASA. Specifically, two policies---draft SOP 2-31 Investigation of Officer-Involved Serious Uses of Force and In-Custody Deaths (Draft: Undated) and Bureau SOP 2-04 Internal Affairs Division---contain provisions regarding the MATF. Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

**Results**

The monitoring team will review both of the above policies, along with the draft MOU now under revision, during the next reporting period, consistent with the monitor's schedule for policy reviews.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

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

**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.**

APD continues to operate under the Memorandum of Understanding (10/18/14) that the monitoring team reviewed as part of the First Independent Monitor's Report. At that time we found no conflicts between the MOU's provisions and CASA requirements. We also noted that informal training appeared sufficient to familiarize MATF members with the Task Force's terms and operating procedures. The monitoring team is also aware of a December 2015 memo that notes that a revised draft of the MOU "is currently being circulated...and awaiting approval by the involved parties." There is an accompanying draft MOU, which was posted in September 2015, but it is undated and does not identify the main author. Other than a number of one-

word margin notes, it is unclear what, if any, substantive changes have been made that might affect CASA compliance.

Because MATF operational issues are addressed in several APD policies currently in the draft stage, APD will achieve compliance when those are reviewed and approved by the IM, who recently established a formal schedule for timely review of all APD draft policies required by the CASA. Specifically, two policies---draft SOP 2-31 Investigation of Officer-Involved Serious Uses of Force and In-Custody Deaths (Draft: Undated) and Bureau SOP 2-04 Internal Affairs Division---contain provisions regarding the MATF. Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

**Results**

The monitoring team will review both of the above policies, along with the draft MOU now under revision, during the next reporting period, consistent with the monitor's schedule for policy reviews.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

**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.**

**Methodology**

APD continues to operate under the Memorandum of Understanding (October 18, 2004) that the monitoring team reviewed as part of the First Independent Monitor's Report. At that time we found no conflicts between the MOU's provisions and CASA requirements. We also noted that informal training appeared sufficient to familiarize MATF members with the Task Force's terms and operating procedures. The monitoring team is also aware of a December 2015 memo that notes that a revised draft of the MOU "is currently being circulated...and awaiting approval by the involved parties." There is an accompanying draft MOU, which was posted in September 2015, but it is undated and does not identify the main author. Other than a number of one-word margin notes, it is unclear what, if any, substantive changes have been made that might affect CASA compliance.

Because MATF operational issues are addressed in several APD policies currently in the draft stage, APD will achieve compliance when those are reviewed and approved by the IM, who recently established a formal schedule for timely review of all APD draft policies required by the CASA. Specifically, two policies---draft SOP 2-31 Investigation of Officer-Involved Serious Uses of Force and In-Custody Deaths (Draft: Undated) and Bureau SOP 2-04 Internal Affairs Division---contain provisions regarding the MATF. Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

**Results**

The monitoring team will review both of the above policies, along with the draft MOU now under revision, during the next reporting period, consistent with the monitor's schedule for policy reviews.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

**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.**

**Methodology**

APD continues to operate under the Memorandum of Understanding (10/18/14) that the monitoring team reviewed as part of the First Independent Monitor's Report. At that time we found no conflicts between the MOU's provisions and CASA requirements. We also noted that informal training appeared sufficient to familiarize MATF members with the Task Force's terms and operating procedures. The monitoring team is also aware of a December 2015 memo that notes that a revised draft of the MOU "is currently being circulated...and awaiting approval by the involved parties." There is an accompanying draft MOU, which was posted in September 2015, but it is undated and does not identify the main author. Other than a number of one-

word margin notes, it is unclear what, if any, substantive changes have been made that might affect CASA compliance.

Because MATF operational issues are addressed in several APD policies currently in the draft stage, APD will achieve compliance when those are reviewed and approved by the IM, who recently established a formal schedule for timely review of all APD draft policies required by the CASA. Specifically, two policies---draft SOP 2-31 Investigation of Officer-Involved Serious Uses of Force and In-Custody Deaths (Draft: Undated) and Bureau SOP 2-04 Internal Affairs Division---contain provisions regarding the MATF. Individual policies should be submitted to the monitor as soon as they are completed and have been reviewed by the City Attorney. (See comments regarding batch submittals of policies in footnote six, paragraph 32, page 47, above). This process will allow the monitoring team to assist APD with the congruency issue.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.73 Assessing Compliance with Paragraph 86: Review of Use of Force Policies and Training

Paragraph 86 stipulates that:

**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.**

**Methodology**

APD SOP 2-52 Use of Force, which was approved by the monitor on January 8, 2016[6] pending minor revisions, complies with both the Constitution and CASA provisions. Several language changes were incorporated into the approved policy, including a Show of Force reporting procedure for the pointing of a firearm and Taser "painting" and an *in extremis* provision for firing at a vehicle in extraordinary circumstances. APD's policy on the use of Electronic Control Weapons and the reporting and investigation of use of force

[6] **This is outside the due dates for this reporting period, but is reported here to give the Court a clearer understanding of the progress being made. Compliance status for this reporting period is reported *for the reporting period*.**

incidents are now under joint review by the IM, APD staff, and DOJ. Once those policies are approved APD will achieve Primary Compliance and, thereby, have a solid foundation upon which to develop and deliver meaningful, effective training.

During the policy review and approval process, APD trainers have continued to develop and refine associated training packages. Hence, they appear to be positioned well to commence the required training upon the approval of SOP 2-52 Use of Force (January 8, 2016). Accordingly, APD has developed a multi-course schedule spanning 18 weeks in the first half of 2016, which it implemented with the issuance of Special Order 15-103 2016 Mandatory Use of Force Training (December 11, 2015). The monitor and monitoring team members will monitor early presentations to assess how well policy requirements have been translated into "high-uptake and transfer" use of force training, with particular attention to authentic scenario-based exercises, incident response and management, de-escalation techniques, and use of force decision-making. APD should consider carefully the instructor-to-student ratio when delivering use of force training, since the monitoring team will pay particular attention to that ratio when determining whether the training will be effective in transferring the knowledge to implement the desired knowledge and skills. Finally, the monitoring team will be particularly interested to examine the timing of training against final monitor approvals of use of force related policies. Special Order 15-103 was issued before the monitor approval of Procedural Order 2-52, and included training dates before the final approval by the monitor was achieved.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.74 Assessing Compliance with Paragraph 87: Use of Force Training Based on Constitutional Principles

Paragraph 87 stipulates that:

**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**

## Methodology

APD SOP 2-52 Use of Force, which was approved by the on January 8, 2016[7], pending minor revisions, complies with both the Constitution and CASA provisions. Several language changes were incorporated into the approved policy, including a Show of Force reporting procedure for the pointing of a firearm and Taser "painting" and an *in extremis* provision for firing at a vehicle in extraordinary circumstances. APD's policy on the use of Electronic Control Weapons and the reporting and investigation of use of force incidents are now under joint review by the monitor, and the Parties. Once those policies are approved APD will achieve Primary Compliance and, thereby, have a solid foundation upon which to develop and deliver meaningful, effective training.

During the policy review and approval process, APD trainers have continued to develop and refine associated training packages. Hence, they were positioned well to commence the required training upon the approval of SOP 2-52 Use of Force (January 8, 2016). Accordingly, APD has developed a multi-course schedule spanning 18 weeks in the first half of 2016, which it implemented with the issuance of Special Order 15-103 2016 Mandatory Use of Force Training (December 11, 2015). The monitoring team will monitor early presentations to assess how well policy requirements have been translated into "high-uptake and transfer" use of force training, with particular attention to authentic scenario-based exercises, incident response and management, de-escalation techniques, and use of force decision-making. APD should consider the instructor to student ratio when delivering use of force training, since the monitoring will pay particular attention to that ratio when determining whether the training will be effective in transferring the knowledge to implement the desired skills and knowledge. Finally, the monitoring team will be particularly interested to examine the timing of training against final monitoring team approvals of use of force related policies. Special Order 15-103 was issued before the monitor's approval of Procedural Order 2-52, and

---

[7] **This is outside the due dates for this reporting period, but is reported here to give the Court a clearer understanding of the progress being made. Compliance status for this reporting period is reported *for the reporting period*.**

included training dates before the final approval by the monitoring team was achieved.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.75 Assessing Compliance with Paragraph 88: Annual Supervisory In-Service Training

Paragraph 88 stipulates that:

**Supervisors of all ranks, including those assigned to the Internal Affairs Bureau, 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.**

### Methodology

The interrelated group of APD policies enumerated in the preceding sections contain provisions complying with each of the requirements in Paragraph 88. However, after reviewing the training courses attended by APD IAD personnel during the second reporting period, the monitoring team has concerns about the coherency and validity of APD's approach to position-specific curriculum development. The normal process for ensuring that position incumbents have the requisite knowledge, skills, and abilities (KSAs) to perform well consists of two stages: First, prospective candidates are assessed carefully to determine if they meet certain pre-requisites, such as investigative experience, excellent report writing skills, and a demonstrated ability to establish rapport with interview subjects, among other things. Second, newly assigned investigators progress through a series of courses (a curriculum) to develop the knowledge, skills and abilities (KSAs) required for competency. Such training should occur early to guarantee a reasonable return on the Department's training investment and a reasonably steep learning curve to support early mastery.

The monitoring team's assessment under Paragraph 64 elaborates on issues identified during its review of recent (second reporting period) IAD investigator training. These are equally relevant to supervisory training.

There are numerous ways in which to build a position-specific training curriculum. One basic approach breaks courses down by the courses' levels of difficulty and complexity, ranging from basic, to intermediate, and then to advanced. A basic IA investigator's course is clearly the starting point in the development of IAD investigators, and, generally, it should be completed first to set the foundation for further training. Cognitive Interviewing should also very likely be a high priority in the sequencing of courses.

Moreover, APD should assess what training content can be addressed in a formal orientation (e.g., case management), on-the-job training (e.g., gaining familiarity with the labor agreement), or in a unit-level handbook or manual (e.g., search warrant procedures), in addition to attending more structured courses. In addition, APD should assess the value of various types of performance aids, such as checklists, pocket cards, and electronic files, in supporting high levels of consistent, uniform performance.

The monitoring team reviewed a Professional Accountability Division memo dated April 6, 2015 that outlines an approach to meeting CASA training requirements for IAD supervisors and investigators. It is clear that APD has already provided a substantial amount of training beginning in late 2014. What is not clear, however, is the rationale underlying course selection and sequencing. There is also no indication of how course attendees are debriefed upon their return, which is vital to ensure consistency, quality, and relevance of outside course offerings. Finally, APD is a relatively large police agency and clearly capable of meeting many training needs through the medium of in-house training courses developed and presented by its own subject matter experts. In making this observation, the monitoring team acknowledges the value of outside courses in exposing APD staff to best practices elsewhere and "testing" APD approaches against alternative models of investigative and supervisory practice. They are also of major value in the development of professional networks. However, it is unlikely outside vendors alone will meet APD's training requirements. Since APD has unique and specific training needs, unless outside vendors customize their programs to those needs (i.e. Specific APD policy and CASA topics) committing time and resources in that direction should be done with due circumspection.

The requirements in Paragraph 88 go beyond investigative training and include incident management, which is a critical (and often unique) set of competencies essential for effective field supervision. Experience has shown time and time again that rapid response and capable supervisory management of high-risk situations is associated with higher levels of success, including

obviating the use of deadly force in many instances. APD's recent SWAT successes attest to this relationship.

As APD moves from the policy compliance to the training delivery phase, the monitoring team will also shift its focus to assess how well the Department is preparing officers to handle a wide variety of encounters---some high-risk and necessitating some level of force--- within the boundaries of newly-approved APD policies, the Constitution, and CASA requirements. This focus will include all levels of training, from the 40-hour required use of force course, to specialized courses, both in-house and outside, and, finally, to regular in-service training.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.76 Assessing Compliance with Paragraph 89: Annual Firearms Training

Paragraph 89 stipulates that:

**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

APD successfully completed its transition to department-owned firearms during 2015, in accordance with CASA provisions. This was documented in a

December 3, 2015 memo to the Training Academy Lieutenant that the monitoring team reviewed. Qualification included both day and night shoots, as specified in SO 15-09 2015 Handgun Transition and Qualifications (1/26/15). This was a major undertaking and APD should be commended for completing it in reasonable time. The monitoring team remains interested in the codified process by which APD tracks and coordinates the few remaining officers who are currently on administrative leave and missed the transition firearms training, and will follow up with the training staff during the next visit.

During its November 2015 visit, the monitoring team attended a Basic Academy class dealing with basic firearms training. We observed a well-organized, tightly controlled, and efficient session, with low student-to-instructor ratios. The training also included an emphasis on maintaining situational awareness by continuous scanning and re-assessment. The particular technique taught by APD, however, should be evaluated carefully to ensure that it is not resulting in a "training scar", that is, the learner habitually doing something, even if other task demands are more pressing. We had insufficient time, however, to conduct an in-depth review of specific training content and procedures. The monitoring team plans future range visits as APD incorporates CASA requirements into its use of force training.

The monitoring team was also advised by the Range Master that APD has a formal procedure for authorizing carrying of a patrol rifle by field officers. APD SOP 2-22 Firearms and Ammunition Authorization (December 11, 2014) specifies that an officer "... must be approved by his/her immediate supervisor, internal affairs, and the range staff..." to receive authorization to carry a patrol rifle. It further requires post-training qualification before doing so. Bureau SOP 4-04 SWAT (Draft: Undated) establishes definitive standards regarding the use of specialized weapons, including training and recurrent qualification, for members of specialized tactical units. Lastly, APD SOP 2-52-4 Use of Firearms (1/8/16) reiterates general requirements on the carrying and use of any force option, including annual or more frequent qualification. These provisions accord with best practices and prevailing standards in the field.

APD has also established requirements for remediating officers who fail to qualify. See Paragraph 20 above for a detailed review of remediation procedures.

**Results**

| | |
|---|---|
| Primary: | **Not Yet Due** |
| Secondary: | **Not Yet Due** |
| Operational: | **Not Yet Due** |

### 4.7.77 Assessing Compliance with Paragraph 90: Management of Specialized Units

Paragraph 90 stipulates that:

**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.**

### Methodology

APD has implemented significant changes, some initiated internally, in the operation of its specialized units to achieve compliance with the goals set forth in Paragraph 90. These are addressed in monitoring team comments under each paragraph.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.78 Assessing Compliance with Paragraph 91: Composition of Specialized Tactical Units

Paragraph 91 stipulates that:

**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, Canine, and Bomb Squad/EOD.**

### Methodology

The Special Operations Division, which oversees specialized tactical units, has established policies that set both selection criteria for team membership and training requirements for all members. These are listed in a series of draft Bureau SOPs that cover SWAT (4-04), Bomb Squad (4-03), and K-9 (4-12). The monitoring team also reviewed official APD "circulars" announcing openings and accompanied by a job description for each of these units. These are called a Department Personnel Circular and assigned consecutive numbers for each year. CNT selection is covered in Administrative SOP 3-13 Crisis Negotiations Team Selection (September 30, 2011). Because it was last revised almost six years ago, APD should undertake a review to ensure that it aligns with current operational doctrine and procedures, along with CASA requirements.

APD has also integrated its Crisis Negotiation Team (CNT), under the command of a lieutenant, into its Special Operations Division that includes all of its specialized tactical units. During its November 2015 visit, the monitoring team observed a night training exercise for CNT members. Notably, the Special Operations Division commander was also present (the monitoring team's visit was spontaneous and unannounced). The training was well organized, incorporated graduate students from UNM's languages program, and stressed teamwork and decision-making. The training featured a language barrier that negotiators had to identify and overcome in the course of resolving the incident. The training debrief was also well done, stressing once again teamwork and decision-making. It also highlighted the diverse translation resources available to police responders in the greater Albuquerque area and the procedures for requesting one. The training accords with best practices within the field. Furthermore, the effective balance between the negotiation or "talk" option and the tactical or "force" option---a common imbalance in many programs that frequently results in the unnecessary use of force---is especially noteworthy. APD should be commended for taking such an integrated approach to high-risk situations.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.79 Assessing Compliance with Paragraph 92: Training of Specialized Tactical Units

Paragraph 92 stipulates that:

**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**

To track and document all levels of training within the Division, Command staff has created a comprehensive Excel spreadsheet (2015 Tactical Training Files) that displays training by officer, by unit, and by operational functions trained. It also provides a link to a summary of each training activity and course. The categorization of operational functions correspond to those listed in Paragraph 92, which places APD in Primary Compliance on this requirement. Although the monitoring team has reviewed the spreadsheet, which we find exemplary, further review---including lessons plans, handout material, scenario-based exercises, and, if feasible, observations of actual training---is needed to assess Secondary Compliance.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.80 Assessing Compliance with Paragraph 93: Tactical Unit Missions and Policies

Paragraph 93 stipulates that:

**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.**

**Methodology**

The Special Operations Division has created specific SOPs that set forth the mission of each unit, selection criteria, and both administrative and operational procedures: SOP 4-04 SWAT (Draft: Undated); SOP 4-03 Explosive Ordinance (sic) Disposal Unit (Bomb Squad); and SOP 4-12 K-9 Unit (Draft: Undated). These policies are consistent with agency-wide use of force policies, which are incorporated by reference where appropriate and binding upon all officers. The monitoring team will work closely with APD staff to bring these policies into Primary Compliance in accordance with the policy review schedule that was established recently by the monitor.

Critical procedures such as SWAT, K-9 and EOD should be **reviewed annually,** assessed in light of critical failures (if any), and nationally accepted standards, and revised accordingly.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.81 Assessing Compliance with Paragraph 94: Tactical Units Policy and Procedure

Paragraph 94 stipulates that:

**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.**

## Methodology

The monitoring team reviewed the following COB documents to assess compliance with each of the topical requirements: SOP 2-42 Hostage, Suicidal/Barricaded Subject, and Tactical Threat Assessment (; each of the Bureau SOPs on its constituent units---SWAT, K-9, and Explosive Ordnance Disposal. SOP 2-42, which is a Special Services Bureau Order, is well written, logically organized, and comprehensive. It fulfills all of the requirements---sub-sections a) through i) ---set forth in Paragraph 94, and, when approved by the monitor, will bring APD into Primary Compliance on this paragraph. The unit-level policies address similar issues and are consistent with the Bureau order.

**Results**

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

## 4.7.82 Assessing Compliance with Paragraph 95: Annual Review of Tactical Policies

Paragraph 95 stipulates that:

**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.**

### Methodology

APD has incorporated the annual review requirement--- including a list of the minimum subjects to be included --- into Bureau SOP 4-04 SWAT (Draft: Undated), which is now pending monitoring review and approval.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.83 Assessing Compliance with Paragraph 96: Documentation of Tactical Activities

Paragraph 96 stipulates that:

**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

Bureau SOP 4-04 SWAT mandates both operational plans for scheduled events and after-action reports on all tactical activations. These requirements are set forth in sub-sections 4-4-3 Q.3. and 4-04-3 K.9. respectively. In unexpected, spontaneous incidents, supervisors and commanders are expected to plan to the extent possible under whatever circumstances prevail. Importantly, APD's emphasis on a measured response that employs a full Tactical Array and de-escalation techniques, if feasible, greatly increases the likelihood that high-risk situations can be contained and stabilized quickly, enabling more informed assessments of the underlying incident and careful consideration of various tactical options to resolve it.

The monitoring team determined that tactical units routinely complete both types of reports. APD has developed planning/reporting templates, as many agencies have done to standardize content and reporting. The format includes specific sections on policy, training, equipment, and tactics, as required by Paragraph 96. The templates are sketchy in some respects, particularly in the area of risk identification, assessment, and management. APD should consider collecting a sample of templates used by major agencies to assess what improvements or refinements it might make to its current forms.

The monitoring team reviewed ten After-Action Report (AAR) memos on tactical activations that took place during the reporting period, and found them

to vary in quality. Several warrant highlighting to pinpoint key issues and concerns:

1. An armed subject had fled into a building occupied by dozens of people. A tactical activation resulted and a plan was developed to search the fairly large building. Officers believed that the suspect was still inside based upon confirmation from the Air Support Unit. As it turned out, he had actually fled before the officers arrived. In the aftermath, officers located a witness who had seen the suspect depart and learned that maintenance staff had video of him leaving. This account raises several questions that might have been elaborated on in the AAR. First, officers advised people in the building to shelter in place, but it is not explained how communication was established. This is important for readers to know if learning from AARs is to occur. Second, it doesn't explain why the air unit might have been mistaken, particularly since officers tend to rely heavily upon reports from other officers. Third, had the officers been aware of the video surveillance footage at the outset (they did get building keys from maintenance who also had the video), would it have been useful in the decision-making process?

   The monitoring team appreciates that such observations are easy to tick off in hindsight, but that is not the point. AARs are both documentation and learning tools. Their value is largely a function of the in-depth assessments that should take place. This includes any consideration that might inform future operations.

2. In another incident detectives located two violent felony suspects in a motel. Both refused to come out when asked. The SWAT Lieutenant authorized a tactical activation after being contacted by one of the detectives. According to the AAR, "As tactical officers were in route to the motel, a CNT detective made contact with the suspects from a lobby phone." It goes on to note that, "When tactical officers arrived...." The monitoring team inferred from this account that contact was made AFTER calling the SWAT Team and BEFORE they arrived. This appears to be a serious coordination and timing issue. Were the on-scene detectives prepared to handle any violent contingencies in the absence of the SWAT Team? Was telephone contact cleared with the responding SWAT Team? There may be legitimate reasons and answers to these questions, but the AAR the monitoring team reviewed did not provide insight into these areas.

3. In a third incident officers responded to a domestic disturbance call and learned that a woman's schizophrenic son had discontinued treatment and was in her house with a pistol. A tactical activation was authorized and a lengthy standoff ensued. Eventually, as a result of chemical munitions being inserted after conferring with an on-scene psychologist, the subject exited and was taken into custody. The AAR made no mention of several

important points: First, the decision to "play it long"---that is, take a patient, methodical approach, avoiding any extreme tactics if possible---and not put officers at risk by unnecessarily forcing entry was sound. Second, whether the lengthy standoff caused relief problems is not mentioned. Third, the use of a professional health care worker in assessing the subject's state of mind and the likely effect of a particular tactical option, i.e., chemical munitions is not discussed. These are all important learning points that could have been highlighted in the AAR.

The monitoring team does not believe that all cases require the documentation of an "Issue (s) of Concern," except in those instances where legitimate issues are identified. However, few tactical responses are flawless, and even when they come close there are still positive learning points to reinforce. Doing something particularly well warrants reinforcement, which is a fundamental principle of learning. Out of the ten AARs reviewed, not a single issue was reported, except for one, which noted that the New Mexico State Police SWAT Team assisted because of an APD shortage of SWAT personnel. But the reviewer never explains the reason for the shortage of APD SWAT personnel, nor does he explore the implications of a persistent shortfall. That's an important operational issue that should be flagged. Lastly, the monitoring team is interested in knowing what serves as the basis for AARs. Are they compiled on the basis of incident reports by a single reviewer, or are they based upon post-incident de-briefings that compile inputs from all of the involved tactical personnel? The second is obviously the preferred approach.

The ten AARs that the monitoring team reviewed are little more than chronological summaries of each incident and the related tactical response. As such, they are of limited value in the process of organizational learning and improvement. (The monitoring team acknowledges that the sample of cases reviewed may not be representative of the quality of AARs generally).

**Results**

SWAT operations in general were exemplary, exhibiting the level of commitment to training, supervision and self-critique the organization imposes upon itself in this area. Findings of non-compliance are related to failure to provide for review the necessary after-action critiques, as called for by this paragraph. These will be annotated.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.84 Assessing Compliance with Paragraph 97: Tactical Mission Briefings

Paragraph 97 stipulates that:

**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

Bureau SOP 4-04 SWAT (Draft: Undated) includes specific guidelines for operational planning, but does not explicitly mandate a briefing before the execution of an operations plan, nor does it specify who should attend or what should be covered in a briefing. These are important risk management measures, mandating them is consistent with best practices and prevailing standards, and they are an important mechanism to ensure close coordination and avoid serious operational errors. APD should also assess whether the requirement in the second sentence is sufficiently clear in SOP 4-04, as the draft does not assign this duty specifically and it is unclear if it is equivalent to the assumption of incident command responsibilities during an operation.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.85 Assessing Compliance with Paragraph 98: Tactical Uniforms

### Paragraph 98 stipulates that:

**All specialized tactical units shall wear uniforms that clearly identify them as law enforcement officers.**

### Methodology

During our interview with the Special Operations Division (SOD) Commander, the monitoring team was shown a set of photographs of various uniforms authorized for use by unit members. The uniforms depicted in the photographs that we viewed are far more suitable for civilian police operations and differ significantly from standard military uniforms. They identify unit members as police officers through distinctive markings and images.

The monitoring team also reviewed Metro Division Order 4-04 SWAT (June 2, 2009), which specifies four basic uniforms that officers may wear depending upon "mission requirements". None are similar in appearance to the standard military camouflage uniform, and all appear suitable and functional for civilian

policing. The authorized uniforms, except for the civilian dress mode, identify unit members as police officers through distinctive markings and images.

The monitoring team was provided SOP 2-6 Uniform, wherein section 2-06-12 was highlighted for our consideration. That section entitled "Tactical/BDU Style Uniform" specifies the uniform required by ERT members.

Two (2) pages from the 2014 APD Annual Report were provided that depict a number of pictures of people in various uniforms and clothing. It is unclear what the purpose is of this exhibit, since this is not a sufficient normal course of business document due to the lack of context for the photographs. The monitoring team will arrange field observations of SWAT and SOD personnel in upcoming site visits, as well as reviewing OBRD videos of SOD personnel engaged in their daily course of business process.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.86 Assessing Compliance with Paragraph 99: Force Review Board Assessments

Paragraph 99 stipulates that:

**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.**

**Methodology**

APD Administrative Order X-XX (no number assigned) Force Review Board (March 1, 2015) requires the Board to review each IAD use of force investigation, which includes K-9 bites, within thirty days of receiving the report. The undated draft order does not explicitly require that the Board review all tactical activations, but it has adopted that practice. The draft order should be revised to reflect the actual extent of the Board's oversight. The Board has adopted the categories specified in the paragraph to structure its case reviews.

The monitoring team also read a December 2015 posting that reported that "[t]he updated and most current SOP 3-67 is currently on PowerDMS for 15 day commentary from Standard Operating Procedure Review Committee (SOPRC). Public commentary ends 12/3/15." SOP 3-67 is the indexing number assigned to an older APD policy titled Critical Incident Review Board

(CIRB), which apparently will be retired and retitled as Force Review Board (FRB). However, the monitoring team was not provided a copy of the most recent draft during the current reporting period. APD should confirm that the draft policy is included in the review schedule recently established by the monitoring for CASA-required policies.

As part of its second review, the monitoring team examined five FRB reports, all of which included the specific categories of interest listed in Paragraph 99. Monitoring team comments of the cases reviewed include the following:

1. It would be helpful to readers to identify each FRB-reviewed case by including the name of the subject/suspect and the location in the opening "header". This is particularly helpful when a reviewer is cross-referencing the FRB report, the investigative file, and the AAR. Such a protocol should simplify the task for APD command staff review of deployments of specialized tactical units.

2. In a July 2015 case the Board noted that the investigation deviated from CASA requirements by having a supervisor of the same rank as the involved officer investigate a serious use of force, rather than CIRT/IAD. It also commented on the fact that an officer's body camera was uncharged during the incident; this issue, however, was immediately addressed by the officer's commander, according to the report, though a disposition is not indicated. The Board recommended that the Department correct this problem by issuance of a Special Order to bring current practices into alignment with CASA requirements. APD eventually issued SO 15-91 on October 20, 2015, a turnaround time of almost three months.

3. Another report identified report writing concerns (the use of boilerplate and common description language) and referred those to the Academy for follow-up, though there is no indication of how this occurred and how it was documented to ensure that the follow-up occurred. In a previous case, the monitoring team found that the recommended remedial training had in fact not taken place even months after the incident.

4. The Board identified an issue of concern in a Taser case in which the suspect might have fallen into traffic after being disabled. The Board again referred the issue to the Academy for follow-up.

5. In the final case the Board found nothing of concern to report on.

The monitoring team also reviewed the Force Review Board Evaluation Forms that accompanied each report and found substantive comments on most. The Form structures the evaluator's review by requiring responses to a series of questions regarding important aspects of the case, such as whether the findings are supported by the preponderance of evidence, whether the

investigation meets Departmental standards, and whether the use of force complies with policy. This is an excellent approach that APD should continue to use and refine.

The monitoring team, for the sake of clarity, appreciates that there may be little of concern to comment on in some cases. All that may be required is to reinforce practices that proved successful, enabled officers to meet high standards of performance, and complied with Department policy and Constitutional standards. Consequently, reinforcing best practices should be viewed as an important function of the FRB.

The FRB clearly appreciates the importance of timely follow-up on significant issues and concerns. The monitoring team encourages APD to determine the best means of documenting and assuring follow-up on the Board's recommendations in order to "close" a critical feedback loop within the Department's force oversight and management system. In the next visit the monitoring team will look to identify how the FRB documents recommendations that are born from their meetings, and how they ensure those recommendations are acted upon.

**Results**

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

### 4.7.87 Assessing Compliance with Paragraph 100: Eligibility Requirements for Tactical Teams

Paragraph 100 stipulates that:

**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 Special Operations Division, which oversees specialized tactical units, has established policies that set both selection criteria for team membership and training requirements for all members. These are listed in a series of Bureau SOPs that cover SWAT (4-04), Bomb Squad (4-03), and K-9 (4-12). The monitoring team also reviewed official several APD Department Personnel Circulars announcing openings in each of the specialized units. The circular includes a job description that describes the position and lists the selection criteria. CNT selection is covered in Administrative SOP 3-13 Crisis Negotiations Team Selection (9/30/11). Because it was last revised almost six years ago, APD should review it to ensure that it aligns with current

operational doctrine and procedures, along with CASA requirements. The monitoring team previously recommended that APD review these Bureau SOPs annually because they pertain to high-risk critical tasks.

Bureau SOP 4-04 SWAT mandates that each specialized unit member undergo an Annual Retention Review to ensure that they meet Department standards for such an assignment. The review consists of an Employee Work Plan (comparable to a performance evaluation) review, a "file" review conducted by unit commanders, and a meeting with the Behavioral Sciences Division. This type of annual review is commended, considering the duties and responsibilities of SWAT, and APD may consider their rationale for that review and whether expanding this practice to other departmental assignments is appropriate.

**Results**

This policy is in compliance with the requirements of Paragraph 100 and constitutes a best practice in the management of tactical units and personnel. The monitor has established a policy review schedule to assess and approve APD CASA-required policies expeditiously. Upon approval APD will be in Primary Compliance.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.88 Assessing Compliance with Paragraph 101: Tactical Team Training

Paragraph 101 stipulates that:

**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:**

During this reporting period's review, the monitoring team identified three different Departmental orders that relate to the requirements of this paragraph: APD SOP 2-42 Hostage, Suicidal/Barricaded Subject, and Tactical Threat Assessment (Draft: Undated); Special Services Bureau SOP 4-04 SWAT (Draft: Undated); and an non-indexed, undated, non-sourced draft titled Response to Suicidal/Barricaded Subjects, which appears responsive to the requirements in Paragraph 131. Collectively they address the "competencies and procedures" set forth in Paragraph 101, and the training requirements,

though terminology appears to vary in some instances. (We expect that all of these subjects are addressed fully in various training formats, but we have deferred reviewing any use of force training pending completion of critical, foundational policies) APD should review these policies, and any others that might be related to them, concurrently to ensure consistency and capitalize on any opportunities for consolidation. The third draft mentioned above may be a prime candidate for consolidation---if that hasn't occurred already---because of large overlaps with SOP 2-42. If this occurs, APD should make sure that collaboration with the MHRAC continues on this issue, as required by Paragraph 131.

Current policy appears to distinguish between two levels of response to barricaded subjects. The first is a response by Field Services Bureau (FSB) officers, including CIT-trained officers, supervisors, and commanders. The second is a SWAT response (a tactical activation) based upon the existence of certain pre-determined, high-risk factors set forth in both SOP 2-4 and Bureau SOP 4-04. However, neither policy adequately explains the role of crisis negotiators (CNT), nor defines how they are integrated with tactical operations. Additionally, it is not clear if CNT can be activated independent of a SWAT response when FSB officers retain command of an incident. These issues should be clarified during the upcoming policy review and approval process scheduled by the monitor.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.89 Assessing Compliance with Paragraph 102: K-9 Post Deployment Reviews

Paragraph 102 stipulates that:

**APD shall continue to require the Canine Unit to complete thorough post- deployment reviews of all canine deployments.**

**Methodology:**

The monitoring team found no specific requirement to conduct such reviews in either SOP 2-45 Use of Canine Unit (8/6/15) or Bureau SOP 4-12 K-9 Unit (undated), though we are aware that K-9 Unit supervisors have historically conducted full investigations on all canine bites, which are defined as serious uses of force in the CASA. We assume that deployments are a broader categorization than canine bites, but that should be clarified in policy. APD

should also incorporate an explicit requirement to conduct after-action reviews, particularly in SOP 4-12, prior to review by the monitor.

During our November 2015 visit, the monitoring team chaired a meeting that included both APD staff and DOJ representatives. One of the issues discussed in that meeting was how canine bites (and not deployments) should be investigated pursuant to the CASA. DOJ noted that canine bite investigations were not an area of concern that was flagged in their original investigation, and that those investigations, in their assessment, were generally thorough and well done. Because the CASA defines canine bites as serious uses of force, however, IAD is assigned to conduct the investigation. If implemented, this would displace the K-9 Unit supervisor as the primary investigator in all canine bite investigations. Given the generally high quality of K-9 Unit bite investigations, further discussion centered upon a compromise in which K-9 Unit supervisors would continue in the primary investigative role, while CIRT would respond and function in some yet-to-be-defined oversight role. No firm resolution was reached in the meeting. The monitoring team sees that as a workable solution, allowing APD to maintain the "craft knowledge" of K-9 unit supervisors and stipulating an "oversight" function for CIRT. We recommend policy reflect such a joint process.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.90 Assessing Compliance with Paragraph 103: Tracking K-9 Deployments

Paragraph 103 stipulates that:

**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.**

**Methodology**

APD has created an excellent tracking system to accomplish the tasks in Paragraph 103. First, it has included K-9 deployment and bite information fields in its Tactical Unit Deployment Tracking Sheet. The IMT reviewed ten tracking sheets and all ten showed that a K-9 was "available" during the activation. Seven of the ten indicated that a bite hadn't occurred, while one reported a bite and described the injury. Two failed to indicate whether a bit had occurred, but both showed no entry in the injury field, leading us to believe that a bite hadn't occurred. The monitoring team will review this issue further with Division supervisors and commanders during our next visit.

The K-9 Unit also tracks other deployments and calculates the ratio of bites to deployments for each officer-canine team monthly. The monitoring team reviewed the K-9 Units' 2015 *Ratio of Bites to Deployments* spreadsheet and determined that the K-9 Unit ratio overall never exceeded 4% in any month during 2015. Moreover, the highest ratio experienced by a single canine-officer team during the year was 13% (two officers for a single month each), well below the 20% threshold for a six-month period established in CASA Paragraph 104. In a conversation with the SOD Commander, it was explained that the higher ratio often results from skewed deployment practices, that is, a particular officer-canine team performs especially well within a SWAT configuration and, as a result, is activated more frequently in high-risk situations. The Commander stated that he and his staff monitor this understandable tendency closely to avoid major workload imbalances and to ensure that all canines can work competently in SWAT activations. As with any statistic concerning force by officers, it will be important for APD to document and justify well any instances where a particular K-9 is deployed in a manner inconsistent with its peers.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.91 Assessing Compliance with Paragraph 104: Tracking K-9 Bite Ratios

Paragraph 104 stipulates that:

**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.**

**Methodology:**

In IMR-1 the monitor stated that canine bites were not included as an EIS incident in Administrative Order 3-49 Early Warning System (6/19/13). This order is still in revision, but sub-section 4-12-11 has been added to incorporate the provisions in Paragraph 104. The added language is posted in memo form as DOJ 104 EIS Bite Ratio.docx and was posted in mid-2015. The monitoring team has not seen the language in an actual policy as of yet. In actuality, 4-12-11 should be a new section in 4-12, but that order currently ends at 4-12-11. APD should resolve these seeming inconsistencies by concurrent review

of all K-9 orders--- from all sources and levels---prior to review and approval by the IM.

As the K-9 bite-deployment ratio for any handler did not reach the 20% threshold at any time during 2015, no required EIS reviews were conducted. This is a significant achievement and SOD staff should be commended for their diligence and active oversight of a critical, high-risk task.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.92 Assessing Compliance with Paragraph 105: Analyzing Tactical Deployments

Paragraph 105 stipulates that:

**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**

APD Special Operations Division has created a Tactical Unit Deployment Tracking Sheet, which the monitoring team reviewed during this reporting period and found that it included all of the fields set forth in Paragraph 105. However, several fields should be enhanced to provide more detail and clarity. First, the monitoring team ***strongly recommends*** that the field "Initial call for service" should require more than a 10-code entry. Sufficient narrative information should be required to capture the high-risk nature of the call. For instance, "mentally ill person armed with a knife" or "armed felon, barricaded" would suffice. Second, there is no specific field for firearm discharges. It should be added to the array of force options displayed on the left side of the sheet. Third, as APD appears to rely significantly on chemical agents, it should also be included as a specific option in the same array. Lastly, APD should evaluate whether the addition of a field to record information about the possible role of mental illness in the genesis of the incident would be of value. This is obviously unnecessary if such information is being captured by other means.

The monitoring team reviewed the FRB's revised Use of Force Reporting template (no date, but it's based upon the 2014 Annual Report) and

determined that "SWAT Breakdown" appears as the main category, though the information is rather sketchy, being limited to a simple count of activations and their geographical distribution. The sub-title is "SWAT Activations by Type of Call Out", but this is misleading, as little information is provided, particularly any consistent with the categories set out in the paragraph.

Further refinements might include the type of resolution, negotiation outcomes, type and seriousness of injuries, presence of mental illness or other impairment, and duration of the incident. These are only suggestions, but underscore the importance of keeping the community informed about APD's approach to handling high-risk situations. In short, the monitoring team finds **reporting** of these high-risk, critical tasks leaves too much to "inference" and "estimate." Detailed reporting of these tasks is critical—both to the requirements of the CASA and to effective management of these processes.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.93 Assessing Compliance with Paragraph 106: Specialized Unit Policies

Paragraph 106 stipulates that:

**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.**

### Methodology

The monitoring team reviewed Administrative Procedure 3-01 Special Investigations Division (SID). APD has revised SOP 3-01 Special Investigations Division (July 17, 2015), which is now an Investigative Bureau Order. The revised order complies with the requirements in Paragraph 106, although individual units are still in the process of compiling handbooks. During its November 2015 visit the monitoring team reviewed the SID Narcotics Section Handbook and provided feedback to the SID Commander. The monitoring team regards the handbook as an excellent approach to codify unit-level policies and procedures. The first draft appears comprehensive (that is, covers all of the important procedural issues), is generally user-friendly, and organized logically. The inclusion of an Appendix with sample reports and documents is excellent, though care should be taken to avoid "boilerplate" and "cut and paste" approaches that become routine practice. As the handbooks are developed and refined further, the monitoring team will work closely with

SID staff to bring them into Primary Compliance. It is important to note that the monitoring team found no indication that unit members were actively ***trained*** in the contents of the handbooks.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.94 Compliance with Paragraph 107: High Risk Situation Protocols

Paragraph 107 stipulates that:

**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.**

**Methodology**

Investigative Bureau SOP 3-01, sub-section 3 A.5. (7/16/15) explicitly prohibits SID units from providing tactical responses where a special tactical unit is required. The order also is in compliance with all of the tasks set forth in Paragraph 107. The order further requires that SID detectives use the APD Tactical Search/Arrest Warrant Service Risk Assessment Matrix as a guide for requesting the assistance of specialized tactical units. This is an excellent approach to managing operational risks in a systematic fashion. The monitoring team recommends that a section be added to SOP 3-01 to explain the matrix in detail and provide more detailed guidance for its use.

**Results**

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

### Compliance with Paragraph 108: Inspection of Specialized Units

Paragraph 108 stipulates:

**Within three months of the Effective 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:

In its first report the monitoring team commended APD staff for the diligence shown in conducting both the 2014 and 2015 inspections in a timely manner. Based upon our review of Interoffice Memoranda verifying the inspections, we determined that APD was in full compliance with the requirements in this section. The inspections--- with the exception of one weapon (40mm gas launcher) that was immediately removed from the unit's inventory after it was discovered in the January 2015 inspection --- found that all other weapons and equipment were consistent with each unit's mission and training. Based upon the timing of past inspections, the 2016 annual inspection is due in January 2016. The monitoring team will review APD records relevant to this paragraph in its next visit to ensure this practice is continuing.

### Results

APD is commended for this type of oversight wherein they inspected, followed up and documented requirements of this CASA. This type of accountability and oversight should be emulated throughout the organization, which will benefit its compliance processes with other CASA requirements.

| | |
|---|---|
| Primary: | **In Compliance** |
| Secondary: | **In Compliance** |
| Operational: | **In Compliance** |

## 4.7.96 Assessing Compliance with Paragraph 109: Tracking Specialized Unit Responses

Paragraph 109 stipulates that:

**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.**

### Methodology

Administrative Procedure 3-01 Special Investigations Division (January 20, 2015) meets all the requirements set forth in Paragraph 109. The monitoring team assessed how this data is tracked and entered into APD's Early Intervention System during our meeting with the Division Commander in November. Performance on this task will thus be updated in IMR-3.

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

### 4.7.97 Assessing Compliance with Paragraph 110: Minimum Use of Force and Those in Crisis

Paragraph 110 stipulates that:

**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."**

### Methodology

Members of the monitoring team requested all policies submitted by APD regarding performance of task 110 that were completed during the second reporting period dates of July-November, 2015. Only Procedural Order 2-13, entitled "Response to the Mentally Ill / Suspected Mentally Ill and People in Crisis," was updated during this period (latest version: Effective 7/22/15, Expires 1/22/16, Replaces 6/25/13). APD is currently at work updating SOP 2-42 "Hostage, Suicidal/Barricaded Subject, and Tactical Threat Assessment" but has not completed that update, nor has it been through the proper approval process required by APD (PPRB) and the City. SOP 3-06, "Criminal Investigations Division," refers to the roles and responsibilities of members of the Crisis Intervention Section and COAST and has also recently been updated (latest version: Effective 12/10/15, Expires 12/10/16, Replaces 7/16/15). The monitoring team will continue to work with the APD to get workable, updated, meaningful and effective policies developed for this task and to generate meaningful training responsive to those policies.

It is clear to the monitoring team that policies supporting Section V tasks are currently in a state of flux, and duties and responsibilities are still being sorted

out. For example, there appears to be continued confusion about response modalities and responsibilities. The monitoring team continues to work to clarify these roles and responsibilities with the APD.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.98 Assessing Compliance with Paragraph 111: Establish MHRAC

Paragraph 111 stipulates that:

**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.**

**Methodology**

This provision is not yet due. Effective September 24, 2015, Federal District Court Judge Brack extended, at the request of the Parties and with the monitor's support, the deadline for this task to December 2, 2015. The monitoring team will evaluate this paragraph again for IMR-3. While this provision is not yet due, members of the monitoring team noted the following progress toward meeting the requirements of this paragraph:

- MHRAC is meeting monthly and producing meeting minutes, which are posted on the CABQ website.
- The new co-chairs for the MHRAC were nominated and approved by vote of the MHRAC on June 16, 2015.
- While the first few meetings of the MHRAC (February, 2015--May, 2015) focused upon logistics and administrative issues rather than substantive response strategies (meeting locations, subcommittee formation, website administration and the like), subsequent meetings (July, 2015-November, 2015) have addressed the future leadership of the MHRAC, information sharing, and coordination with the Bernalillo County Sheriff's Department.
- MHRAC by-laws were formally voted on and adopted on June 16, 2015.
- The requirement of this paragraph carries a timeline of "within six months of the effective date" thus these requirements are not yet due.

## Results

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

### 4.7.99 Assessing Compliance with Paragraph 112: Representation on MHRAC

Paragraph 112 stipulates that:

**The Advisory Committee shall include representation from APD command staff, crisis intervention certified responders, Crisis Intervention Unit (CIU), Crisis Outreach and Support Team (COAST), and City-contracted mental health professionals. APD shall also seek representation from the Department of Family and Community Services, the University of New Mexico Psychiatric Department, community mental health professionals, advocacy groups for consumers of mental health services (such as the National Alliance on Mental Illness and Disability Rights New Mexico), mental health service providers, homeless service providers, interested community members designated by the Forensic Intervention Consortium, and other similar groups.**

## Methodology

During the second team site visit (November 2-6, 2015), members of the monitoring team met with an MHRAC co-chairs and committee members as well as with members of the APD Crisis Intervention Unit to discuss progress, including the formation of the MHRAC subcommittees. Members of the monitoring team reviewed MHRAC meeting minutes, by-laws and other relevant documents produced by the MHRAC, most of which is publicly posted on the City of Albuquerque's website.
The Committee composition is responsive to the requirements of paragraph 112 and minutes of the MHRAC meetings indicate that the Committee is responsive to its tasking. The APD support personnel are actively engaged and supportive.

The following processes and milestones were noted:

- MHRAC has been formed and is meeting regularly, with specified groups present at each meeting.
- New co-chairs have taken over the duties of the original co-chairs, and are moving MHRAC's agenda forward.
- Appropriate APD staff members have been assigned to attend the MHRAC meetings and participate on the Committee as well as subcommittees.

## Results

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

### 4.7.100 Assessing Compliance with Paragraph 113: MHRAC Guidance

Paragraph 113 requires:

**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

During the second team site visit (November 2-6, 2015), members of the monitoring team met with the MHRAC co-chairs, members of the MHRAC subcommittees, and members of the APD Crisis Intervention Unit to discuss progress. We reviewed not only the MHRAC meeting minutes for this reporting period, but also the subcommittee proposals and documents, including those from the Information Sharing subcommittee, the Training subcommittee, and the Resources subcommittee. The documentation suggests that the MHRAC is actively considering new and current response strategies and moving toward providing guidance on effective responses to behavioral crisis events.

#### Results

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

### 4.7.101 Assessing Compliance with Paragraph 114: MHRAC Protocols

**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

During the second site visit (November 2-6, 2015), members of the monitoring team met with the MHRAC co-chairs and MHRAC members as well as with members of the APD Crisis Intervention Unit to discuss progress. The subcommittee on Information Sharing was at work on drafting an action plan

during this reporting period, but as of November 30, the action plan was neither complete nor voted on by the MHRAC.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.102 Assessing Compliance with Paragraph 115: APD Provides Data to MHRAC

Paragraph 115 requires:

**Within nine months of the Operational Dates, 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**

During the second site visit (November 2-6, 2015), members of the monitoring team met with an MHRAC co-chair as well as with members of the APD Crisis Intervention Unit to discuss progress. Monitors also reviewed CIU/COAST Monthly reports from June, July, August and September, 2015; minutes from MHRAC meetings during this reporting period; an updated mental health resources card/list; and draft tracking materials, which are not yet final. We determined that:

- APD is currently developing a new data tracking system – both officer forms and tracking spreadsheets are being developed
- APD is currently developing a new behavioral health training curriculum for the 40-hour in-service CIT course, including scenario-based training
- The requirement of this paragraph carries a timeline of "within nine months of the effective date," and is not due for completion until March 2, 2016, a date outside the timeframe for this report.

**Results**

The performance deliverables of this paragraph are not due until March 2, 2016.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**

Operational: **Not Yet Due**

### 4.7.103 Assessing Compliance with Paragraph 116: MHRAC Coordination

Paragraph 116 requires:

**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

During the third site visit (November 2-6, 2015), members of the monitoring team met with the MHRAC co-chairs, MHRAC members, and members of the APD Crisis Intervention Unit to discuss progress. Monitors reviewed the CIU's monthly reports and the MHRAC meeting minutes for this reporting period (July-November). Documentation indicates that the MHRAC subcommittees are in communication with local behavioral health systems and are in the process of formulating plans and action items.

#### Results

The performance deliverables of this paragraph are not yet due.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.104 Assessing Compliance with Paragraph 117: MHRAC Public Reports

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

During the second site visit (November 2-6, 2015), members of the monitoring team met with members of the MHRAC, including the co-chairs, as well as with members of the APD Crisis Intervention Unit to discuss progress. Monitors also reviewed CIU/COAST Monthly reports and MHRAC meeting minutes and subcommittee documentation for this reporting period. Documentation indicates that MHRAC is at work on its recommendations for training, policies and procedures and coordination to connect people to

available mental health resources. The requirement of this paragraph carries a timeline of "within 12 months of the effective date." Criteria for this paragraph are not due until June, 2, 2016.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.105 Assessing Compliance with Paragraph 119:[8] Training for CIT Officers

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 the end of 2015.**

**Methodology**

Members of the monitoring team have been holding monthly teleconferences with members of the Crisis Intervention Unit responsible for facilitating the development of training addressing mental health issues to discuss progress. Since the transfer of responsibility for the 40-hour in-service CIT curriculum from Dr. Troy Rodgers (PSPG) to the internal APD Crisis Intervention Unit (CIU) in July of 2015, the CIU has been at work updating the in-service 40-hour CIT curriculum to attempt to comply with this paragraph. APD continues providing state-mandated behavioral health training to cadets in the academy. Monitors reviewed CIU Monthly reports for this reporting period, in addition to their regular calls with the CIU.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.106 Assessing Compliance with Paragraph 120: CIT Training

Paragraph 120 stipulates:

---

[8] No evaluation methodology was developed for paragraph 118, as it is not a "requirement" for APD or City action, but simply states facts.

**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

Members of the monitoring team have been holding monthly teleconferences with members of the Crisis Intervention Unit responsible for facilitating the development of training addressing mental health issues to discuss progress. Since the transfer of responsibility for the 40-hour in-service CIT curriculum from Dr. Troy Rodgers' Public Safety Psychology Group (PSPG) to the internal APD Crisis Intervention Unit (CIU) in July of 2015, the CIU has been at work updating the in-service 40-hour CIT curriculum to attempt to comply with this paragraph. Discussions indicate that the updated training curriculum will address assessment, identification, suicide intervention, crisis de-escalation, community mental health participation and scenario-based exercises and role-play. Monitors reviewed CIU Monthly reports for this reporting period, in addition to their regular calls with the CIU.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.107 Assessing Compliance with Paragraph 121: Tele-Communicators Training

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

During the first site visit (June 21-26, 2015), members of the monitoring team met with Crisis Intervention Unit personnel responsible for facilitating the development of training addressing mental health issues to discuss progress. During partial-team site visit (August 19-22, 2015), members of the monitoring team again met with members of the APD Crisis Intervention Unit to discuss progress. The monitoring team also reviewed CIU/COAST Monthly reports from March and April, 2015.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.108 Assessing Compliance with Paragraph 122: Training in Behavioral Health Issues

Paragraph 122 stipulates:

**APD shall provide two hours of in-service training to all existing officers and tele-communicators on behavioral health-related topics bi-annually.**

**Methodology**

During this reporting period, some confusion surfaced about the roles and responsibilities of PSPG-developed training vs. APD CIU-developed training. In recent years, PSPG delivered this training and it is yet unclear whether that will continue or the training for tele-communicators will be moved in-house like the 40-hour in-service CIT curriculum, which was undergoing major revisions during this reporting period.

To date, these issues remain unresolved by the City or the monitor.

Training for Tele-communicators was offered by the City during the months of November, 2014 through October, 2015. The monitoring team has reviewed those scores and found the following issues:

- A total of 8.7 % of those listed on the roster for training were listed, without explanation as "N/A," yielding any internal assessment of the efficacy of the training moot;

- On a series of four quizzes, scores were listed as "1-4" yielding no "context" of the meaning of those numbers;

- Scores on the four "quizzes" given tele-communicators ranged from a low of 85.71 to a high of 100, with an average "quiz" score of 89.9;

- A total of 10 of the tele-communicators who should have taken the test were listed as "N/A," which the monitoring team assumes means (there is no guidance or legend associated with the data provided by the City) they did not complete the course or the quizzes. There is no evidence located by the monitoring team to explain what the "NA" means (and more importantly no documentation to show a retraining or re-testing of those personnel, if they are still employed).

- Test results seemed abnormally high, with an "average score" of 98.4, which causes the monitor to have some concern about the complexity of the training and the efficacy of the scores. The monitoring team will revisit the issue of tele-communicator's training during the third site visit.

### Results

The results of this preliminary assessment of tele-communicator's training raise enough issues to warrant revisiting them with the City during the third site visit.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.109 Assessing Compliance with Paragraph 123: CIT Staffing

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

During the site visit to prepare for the second monitor's report (November 2-6, 2015), members of the monitoring team met with Crisis Intervention Unit personnel responsible for staffing to discuss progress and reviewed the CIU/COAST Monthly reports from June, July, August and September, 2015. Compliance with staffing factors cannot be fully assessed until the Weiss and Associates staffing study is complete (the study was completed and results disseminated in November 2015, which did not give members of the monitoring team sufficient time to review and comment on the report for this period. Comments will be registered in the monitor's third report.

## Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.110 Assessing Compliance with Paragraph 124: CIT Staffing Goals

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 Effective 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

During the site visit (November 2-6, 2015), members of the monitoring team met with Crisis Intervention Unit personnel responsible for staffing to discuss progress and reviewed the CIU/COAST Monthly reports from June, July, August and September, 2015. Compliance with staffing factors cannot be assessed until the Weiss and Associates staffing study is complete. The requirement of this paragraph carries a timeline of "within one year of the Effective date." Members of the monitoring team have reviewed the training documentation for officers who were trained by PSPG trainers. That documentation consists of a collection of 295 PowerPoint slides for the 40-hour in-service CIT course; a matrix listing topics and instructors for 40-hour course; a 36-page participant/learner guide for the 40-hour in-service CIT course; a 1-page agenda for "CIT-FO refresher" course (8 hours) but no additional course materials; a 1-page agenda for "Basic Crisis Intervention and Verbal De-Escalation for Tele-Communicators" (8 hours), but no additional course materials; and a 1-page agenda for "Advanced CIT and Verbal De-Escalation for Tele-Communicators (8 hours) but no additional course materials. The document support provided by APD of the training used to certify 87 percent of its CIT-capable officers falls short of expected documentation, which *should include* the following:

- Needs Assessment;
- Course Objectives;
- Learning Objectives;
- Participant Performance Objectives;
- Identification of instructional modalities (including more than straight "lecture" from PowerPoint slides), such as small-group problem-solving

exercises, video review and debrief; and reality-based training scenario exercises;
- Descriptions of assessment modalities, such as exams and problem-solving rubrics for situations commonly faced by CIT-capable officers assessed through scenario exercises; and
- Content absorption testing process (pre-training and post-training knowledge assessments)

The documentation provided depicts lecture-style teaching methods. This is inadequate "proof of life" for an effective training process and learning experience. The monitoring team will continue to monitor CIU/COAST training for appropriate documentation and testing.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.111 Assessing Compliance with Paragraph 125: CIT Training for Field Officers

**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**

Monthly telephone communications with CIU officers during this reporting period indicate that APD is moving forward with utilizing the "Mental Health First Aid USA" curriculum to fulfill this requirement. Several CIU officers attended a Train-the-Trainer event for this 8-hour curriculum, developed by the Mental Health Association of Maryland, the Missouri Department of Mental Health and the National Council for Behavioral Health.

**Results**

No deliverables are due as of yet for this paragraph, as it has an 18-month timeline.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.112 Assessing Compliance with Paragraph 126: In-Service Training for CIU

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

Monthly telephone communications with CIU officers during this reporting period indicate that APD is moving forward with utilizing the "Mental Health First Aid USA" curriculum to fulfill this requirement. Several CIU officers attended a Train-the-Trainer event for this 8-hour curriculum, developed by the Mental Health Association of Maryland, the Missouri Department of Mental Health and the National Council for Behavioral Health.

#### Results

No deliverables are due as of yet for this paragraph, as it has an 18-month timeline.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.113 Assessing Compliance with Paragraph 127: Staffing of CIU Responders

Paragraph 127 stipulates:

**Within 18 months of the Effective 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

Members of the monitoring team assessed APD's status regarding revision of Procedural Order 2-13 and found it to be "in-progress" as the APD continues to review iterations of the policy and consult with the MHRAC on policy language. The staffing study by Weiss and Associates has not yet been made available to the CIU, as of the writing of this report.

#### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.114 Assessing Compliance with Paragraph 128: Response to Individuals in Crisis

Paragraph 128 stipulates:

**APD will ensure that crisis intervention certified responders or CIU would 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

Members of the monitoring team assessed APD's status regarding revision of Procedural Order 2-13 and found it to be "in-progress" as the APD continues to review iterations of the policy and consult with the MHRAC on policy language. The staffing study by Weiss and Associates has not yet been provided to the MHRAC.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.115 Assessing Compliance with Paragraph 129: CIU Use Data Collection

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

Members of the monitoring team met with APD personnel working on compliance efforts for this paragraph to determine their status and ensure all items required are addressed. The system in its entirety is still under development, and will include both officer forms and tracking spreadsheet of officer contacts. As of August 3, 2015 officers are required to complete the CIT Worksheet for Mental Health Contacts, per a memo from Chief Gorden Eden, Jr., which reads, in part, "Effective immediately, all officers should start using the CIT Worksheet for Mental Health Contacts, located at [link to APD internal website]. This contact sheet may be used in lieu of a police report unless there is an arrest, use of force, or subject(s) are place in handcuffs." Again, the monitoring team is concerned with what should be detailed and specific policy guidance being issued by memorandum instead of formal policy. Given the issues currently being encountered by APD with crafting effective policy, this may be a reasonable stop-gap measure; however, it should not be relied on as a long-term "fix."

## Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.116 Assessing Compliance with Paragraph 130: Case Studies for Training

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

Members of the monitoring team had regularly scheduled monthly teleconferences with APD personnel tasked with developing systems responsive to this task. CIU officers have been at work updating the crisis response and behavioral health curricula to attempt to comply with this paragraph. Discussions indicate that the updated training curriculum will include case studies, reality-based scenarios and role-play exercises and

curriculum updates. Monitors reviewed CIU Monthly reports for this reporting period, in addition to their regular calls with the CIU.

### Results

No outputs have been produced relative to this paragraph as of the team's second site visit.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.117 Assessing Compliance with Paragraph 131: Suicidal Subjects Not Posing Imminent Harm to Others

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

APD's progress toward compliance with this paragraph provides another example of a fragmented policy development process. During the first reporting period, the monitoring team reviewed a draft protocol on "Response to Suicidal/Barricaded Subjects" that appeared to be a working policy draft. The document had no index number, was undated, and indicated no source that would enable follow-up. (These should be standard notations on every draft policy, along with page numbers and a DRAFT marker.) It was unclear to the team whether the document, which was posted in August 2015, was an outline of proposed policy and procedures, or actually a draft policy. Another document dated April 1, 2015 advised the CNT Commander that the document had been sent to the Mental Health Resource Advisory Committee (MHRAC) for review at its next meeting. The monitoring team also reviewed several sets of MHRAC meeting minutes from July 21, 2015 and August 8, 2015, which confirmed that the scheduled review had taken place. Additionally, the CNT Commander confirmed with monitoring team members that he had attended the August 2015 meeting to discuss the guidelines. Though this activity is indicative of some level of collaboration, as required by the CASA, it is unclear what the extent and nature of the collaboration actually was, and whether a mechanism exists to maintain regular consultation in the future.

Overall, the "draft order" is comprehensive, the tone is excellent, and the procedures set forth are balanced and sound. Having said that, the protocol

requires additional work to make sure that it accords with the interests represented by the Advisory Committee, the interests of APD, and the interests of public safety. The policy fragmentation mentioned above stems from the existence of four different policies[9] that overlap significantly (the monitoring team acknowledges the ambiguous status of the draft presented to the MHRAC). Consequently, the monitor recommends that APD review this set of policies--and any others within its directives system that might be linked in some way--concurrently to consider potential consolidation and to ensure uniformity. For instance, Bureau SOP 4-04 SWAT (Undated) is comprehensive and generally well written (there are several organization issues), but does not include the expansive language on suicidal-barricaded subjects found in SOP 2-42 Hostage, Suicidal/Barricaded Subject, Sniper Situations (Undated, but notes that it replaces the one dated January 1. 1999). Hence, APD should review this issue and decide if similar language should be added to 4-04 to bring it into compliance. The monitoring team further recommends that the last sentence in Paragraph 131, with the additional underlined language that follows, be added to both SOP 4-04 and SOP 2-42-3, sub-section B.7.vi, or, alternatively, to the opening section: *The protocol will have the goal of protecting the safety of officers, members of the general public, and suicidal subjects while providing suicidal subjects with access to mental health services.* The existing language in the Policy section of 2-42 states that "...it is department policy to protect citizens and officers and to arrest the subjects involved...." That appears to conflict with the intent of this paragraph. SOP 4-04 makes no mention of the protocol required by Paragraph 131. Likewise, where policies include force provisions (as with 2-42) APD should be explicit and include sufficient language to ensure those provisions are clear and consistent with the CASA, as well as cohesive with other APD policies related to force.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.118 Assessing Compliance with Paragraph 132: COAST and CIU Follow-up

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**

[9] The fourth, not mentioned in the narrative, is SOP 2-13 Response to Persons Affected by Mental Illness or in Crisis (7/22/15).

**enforcement encounters and to proactively work to connect these individuals with mental health service providers.**

## Methodology

During the a second site visit (August 19-22, 2015), members of the monitoring team rode along with members of the APD Crisis Intervention Unit to observe proactive outreach to individuals with a known mental illness. One-on-one interviews with APD CIU and COAST personnel during that visit, and monthly phone calls throughout this reporting period indicate that APD continues to maintain regular contact with individuals known to them. Further, APD continues conversations with UNM's Psychiatric Department to discuss community working relationships. Until such time as APD's policy regarding delivery of services to people with mental illness is completed (SOP 2-13), however, the APD is not in compliance.

## Results

As recommended in its first report, the monitor again recommends that APD set a requirement to conduct an annual review of any policy that deals with critical, high-risk tasks. The monitoring team finds it unacceptable that the last date of review for SOP was January 1, 1999--- sixteen years ago. To facilitate annual reviews, APD should consider grouping policies that concern, high-risk-critical tasks together and mandate that all uniformed officers possess an in-depth working knowledge of these policies.

The approach required by Paragraph 131 is a major change in APD operational doctrine governing field responses to high-risk incidents involving persons who are in crisis, or otherwise impaired. However, developing specialized policy for response to such incidents is an operational and risk management mindset that is slowly gaining adherents in U.S. policing. Risk assessment has been added as an explicit supervisory and command responsibility, as have requirements pertaining to de-escalation and using the minimum amount of force necessary. To its credit, APD's Special Operations Division has moved quickly to embrace and implement these changes, which shape fundamental mindsets and Departmental practice. Yet, these new emphases should not in any way compromise officer safety, public safety, or tactical requirements. The two orientations---tactical-safety and clinical-support--- must proceed hand-in-glove, varying in relative emphasis depending upon circumstances. Skilled practice regards the two mindsets as complementary, rather than conflicting.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.119 Assessing Compliance with Paragraph 133: Staffing for COAST and CIU

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

During a second site visit (August 19-22, 2015), members of the monitoring team rode along with members of the APD Crisis Intervention Unit to observe proactive outreach to individuals with a known mental illness. The monitoring team also reviewed the CIU Monthly Reports and the MHRAC meeting minutes for this reporting period. APD continues to manage its caseload through CIU and COAST with consistent outreach to individuals with a known mental illness. Until such time as APD's policy regarding delivery of services to people with mental illness is completed (SOP 2-13), however, the APD is not in compliance.

#### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.120 Assessing Compliance with Paragraph 134: COAST and CIU Referrals

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

Ride-alongs and regular communication with the APD personnel responsible for this paragraph in the CIU and COAST indicate that APD's CIU and COAST units continue to provide referrals to/for treatment options. A review of the CIU Monthly Reports and the MHRAC meeting minutes for this reporting period also indicate that APD continues to assist people with mental illness in connecting with available services and treatment options. Until such time as APD's policy regarding delivery of services to people with mental illness is completed (SOP 2-13), however, the APD is not in compliance.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.121 Assessing Compliance with Paragraph 135: Staffing Levels for CIU/COAST

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

Members of the monitoring team spoke regularly to the CIU personnel responsible for outreach and case management to discuss progress. The monitoring team spoke with community members and service providers through the MHRAC to discuss collaborative opportunities. The staffing study by Weiss and Associates, which is the critical piece of this analysis, was not yet complete during this reporting period.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.122 Assessing Compliance with Paragraph 136: Improving CIU/COAST Outreach

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

Members of the monitoring team, through conversations with CIU personnel and members of the MHRAC, observed that communication and coordination is taking place, focused on improving outreach, service delivery, crisis

prevention and referrals. Members of the monitoring team also reviewed the CIU Monthly reports and the MHRAC meeting minutes during this reporting period. The final policy for CIU/COAST is still under development and the staffing study was not complete as of end of the second reporting period.

### Results

Two pieces of critical work remain to be done to achieve compliance with this task: completion of the staffing study (expected in late November) and finalization of controlling policy for CIU/COAST.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.123 Assessing Compliance with Paragraph 137: Impact Analysis for Crisis Prevention

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;**

**b) date, shift, and area command of incidents or follow up encounters;**

**d) subject's age, race/ethnicity, and gender;**

**e) whether the subject claims to be a U.S. military veteran;**

**f) techniques or equipment used;**

**g) any injuries to officers, subjects, or others;**

**h) disposition of the encounter (e.g., arrest, citation, referral); and**
**i) a brief narrative of the event (if not included in any other document).**

### Methodology

Members of the monitoring team met with APD personnel working on compliance efforts for this paragraph to determine their status and ensure all items required are addressed. The system in its entirety is still under development, and will include both officer forms and tracking spreadsheet of officer contacts. As of August 3, 2015 officers are required to complete the CIT Worksheet for Mental Health Contacts, per a memo from Chief Gorden Eden,

Jr., which reads, in part: "Effective immediately, all officers should start using the CIT Worksheet for Mental Health Contacts, located at [link to APD internal website]. This contact sheet may be used in lieu of a police report unless there is an arrest, use of force, or subject(s) are place in handcuffs."

**Results**

Work continues on new data collection instruments and processes, but at the time of this analysis, had not been completed. The protocols for the required analysis of data had not yet been implemented.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.124 Assessing Compliance with Paragraph 138-148 Training

The monitoring team noted in its first report assessing the APD's performance in implementing the requirements of the CASA that:

> **"APD's recruit and in-service training processes are the subject of paragraphs 138-161. The very first paragraphs informing APD's training practices focus, rightfully so, on the policy that underlies the training. Policy is the foundation of training. Any training developed and delivered absent a strong and resilient policy system is virtually guaranteed to fail to deliver a training product that maintains consistent performance reflective of organizational values and operational requirements."**
>
> **"Members of the monitoring team recognized from the very start that APD policies in effect at the time the monitoring team were in less than exemplary. Critical, "key piece" policies were difficult to understand, were often disjointed, clearly written piecemeal, without an over-arching understanding of the function of policy as a critical piece of the training continuum. For example, the monitors gave failing marks to critical policy elements on their initial reviews, finding fatal flaws in the APD's use of force, internal affairs, supervision, and other policies that made effective training virtually impossible."**
>
> **"Further, as members of the monitoring team became more acquainted with APD's training system in the early days of the monitoring process, it was clear that that system was not based on any clear form of needs assessment that would drive what would be trained or how it would be trained. Thus the first two critical pieces of any training development, clear and careful needs assessment and effective, clear, well-written policy were missing from the APD's existing training rubric at the time of the monitoring team's first assessment. Without a reasonable needs assessment, the agency does not know what to train; without effective policy, the agency does not know**

**how to train. These two flaws would have undermined APD's training efforts, no matter how well intentioned or effectively managed."**

**"After a brief discussion with the Chief of Police and key command staff responsible for training, the monitoring team agreed that a brief training hiatus, allowing time for meaningful training needs assessments and the development of understandable policy in such key areas as use of force, internal affairs, responding to persons in crisis, and high-risk critical task response was a far superior tactic to one of moving forward without clear guidance. As a result, some training was delayed pending development of an internal training planning process that was more likely to be successful than the one that existed at the time the monitoring team first began working with APD."**

**"This new approach [for APD], used in many well-respected police agencies, and agencies that have successfully navigated the consent decree management process, would implement the assessment-development-implementation-evaluation model recommended in many organizations, similar to Edwards Deming's quality-circle process. On November 2, 2015 the monitor will engage in a "conversation" with APD command staff regarding the training development cycle used with Pittsburgh Bureau of Police and with the New Jersey State Police. At that point, a coordinated, responsive, needs-based training evaluation can take place at APD, which should result in training specifically designed to address issues actually confronting APD. The monitoring team will, if so desired, take an active role in reviewing, critiquing, and facilitating revisions to training at APD, as opposed to simply "evaluating" the end result of the APD's efforts."**

**"This approach is necessitated in part by the monitoring team's late arrival 'on the job' in Albuquerque. Secure funding, for a variety of reasons, was not secured for the monitoring team until late May. The team's first full-site visit was, of necessity, delayed until June. Thus, the APD was deprived of critical insights and assessments as their policy development--training plan--execution--evaluation--modification cycle was implemented."**

Paragraphs 138-148 continue to be classified as "pending" for the monitor's second report (IMR-2). All following reports will include detailed discussion of each of the requirements, including APD actions for the period, responses of the monitoring team to those actions, and findings regarding compliance status. While paragraphs 138-148 deal with "policy" directly, it is clear to the monitoring team that a great deal of training will need to be done before APD begins to develop adequate and responsive policy.

In the intervening months, since the monitoring team penned those words, several processes have been initiated to facilitate APD's response to

paragraphs 138-148. The monitoring team engaged key members of the command staff in in-depth "discussions" about policy development, training needs assessment processes, training curriculum development and documentation, and training delivery evaluation, as well as processes designed to undergird training activities. The monitors have engaged key APD units and staff in wide-ranging, comprehensive, and detailed discussion of policy development and assessment.

To date, however, APD has yet (as of the end of the second reporting period) to develop a clear, concise and trainable use of force policy, and other less critical, but nonetheless important policies also lag behind expected deliverable dates.

Training, as a result also has been delayed. An acceptable use of force policy, due to have been completed by the December 2, 2016, is still "pending." Other essential policies lag even further behind. Thus, with few exceptions, all training at APD has been placed on hold for the foreseeable future. Until there is policy to serve as the foundation for training in high-risk, critical tasks such as use of force, vehicle pursuits, internal affairs investigations, discipline, SWAT operations, etc., training on those topics will be further delayed. The monitoring team is deeply concerned that development in these critical areas continues to be stymied by lack of effective policy in the articulated areas. The APD project was, at the end of this reporting period, almost a full year into program planning and response, yet the critical areas of policy and training still need urgent attention.

### 4.7.125 Assessing Compliance with Paragraph 149: Briefing on CASA

Paragraph 149 stipulates that:

**Within two months of the Effective 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

Based on normal daily course of business (COB) documents provided to the monitoring team, a series of presentations were made to all APD personnel consisting of a briefing of the requirements of the CASA and a depiction of the implementation plan established by APD to meet the require "briefing" process. There appears to be some question as to the coverage of one of the elements required by the CASA; however, given the number of elements in the CASA applicable to the APD *per se* (280), even if that one element were omitted or not exactly what the CASA required, it constitutes only a 0.003 error. Obviously, .003 is well within the acceptable margin of error of five percent. The monitoring team will continue to monitor progress on ***all*** training

elements of the decree. Task 149 was the only two-month task identified by the CASA.

**Results**

| | |
|---|---|
| Primary: | **In Compliance** |
| Secondary: | **In Compliance** |
| Operational: | **In Compliance** |

### 4.7.126 Assessing Compliance with Paragraph 150: Distribution of Policy

Paragraph 150 stipulates that:

**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**

Requirements for this paragraph were not assessed this monitoring period, as training relative to policies and procedures has not yet begun on a regularized basis—as of the end of this reporting period (November, 2015), APD had not produced a single core policy that has been approved by the Parties or the monitor. Paragraph 143 allows nine-months for APD (via the Policy and Procedures Review Board) to "review, develop, and revise policies and procedures that are necessary to implement this Agreement." This requirement is not due to be fully completed until June, 2016 (nine months to complete the policy work and three months to ensure training of content).

**Results**

Paragraph

| | |
|---|---|
| Primary: | **Not Yet Due** |
| Secondary: | **Not Yet Due** |
| Operational: | **Not Yet Due** |

### 4.7.127 Assessing Compliance with Paragraph 151: Training Timelines

Paragraph 151 stipulates that:

**Unless otherwise noted, the training required under this Agreement shall be delivered within 18 months of the Effective Date, and annually thereafter. Within six months of the Effective Date, APD shall set out a schedule for delivering all training required by this Agreement.**

### Methodology

The monitoring team reviewed the APD's "class schedule" for training development and found all training elements required by the CASA to be reflected in that document, which lists, for each training development cycle, the "task lead", the date of the last CASA paragraph update related to each training element, a narrative of the title and status of the training element, the time development started, elapsed time for development, and finish date. The monitoring team will conduct "real time" audits of these training events over the coming years to ensure that the training is not only completed to national standards but is complete on-time. The APD is currently in compliance with time parameters for setting out a schedule for training, as required by this task. APD has developed its 18-month training calendar. The monitoring team will assess compliance levels with the posted schedules during the course of the following three years.

***Schedule:***
*2016 Training*
*11 July – 10 November*
*2017 Training*
*10 July – 10 November*
*2018 Training*
*9 July – 9 November*

### Results

#### *Setting Out a Schedule*

| | |
|---|---|
| Primary: | **In Compliance** |
| Secondary: | **In Compliance** |
| Operational: | **In Compliance** |

#### *Delivery of Training*

| | |
|---|---|
| Primary: | **Not Yet Due** |
| Secondary: | **Not Yet Due** |
| Operational: | **Not Yet Due** |

### 4.7.128 Assessing Compliance with Paragraph 152: Lateral Hires

Paragraph 152 stipulates that:

**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

During the second monitoring site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment/Hiring policy development and implementation, and identified current development processes and expected due dates. Throughout this monitoring period, the APD retained one lateral entry-level hire and decided to have this lateral hire complete the entire Academy process. The lateral hire received the same training as the non-lateral cadets. This lateral hire was subjected to the same screening processes as all other entry level cadets.

The APD also recruited and hired one executive-level employee during this reporting period. This individual was recruited as an executive appointment to a senior-level training position. As such, the APD contends this position is considered discretionary and exempt from this requirement.

## Results

| | |
|---|---|
| Primary: | **In Compliance** |
| Secondary: | **In Compliance** |
| Operational: | **In Compliance** |

### 4.7.129 Assessing Compliance with Paragraph 153: Accurate Training Records

Paragraph 153 stipulates that:

**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

During the second monitoring site visit, members of the monitoring team met with Training Academy Personnel responsible for the maintenance of all APD sworn officers training records. The APD houses the training records electronically and in hard copy format. The electronic database is called Officer Training Information System (OTIS). All records are archived at the APD Academy. The staff showed the members of the monitoring team how they access any information required to be available for inspection upon request as stipulated in this paragraph. The monitoring team will conduct

inspections of these materials in future site visits to ensure that implementation processes can be maintained.

**Results**

| | |
|---|---|
| Primary: | **In Compliance** |
| Secondary: | **In Compliance** |
| Operational: | **In Compliance** |

### 4.7.130 Compliance with Paragraph 154: Updates on Case Law

Paragraph 154 stipulates that:

**APD shall ensure that changes in relevant case law and statutes are disseminated to APD personnel in a timely manner and incorporated, as appropriate, into annual and pre- service training.**

**Methodology**

During the second monitoring site visit, members of the monitoring team met with Training Academy Personnel responsible for the dissemination of changes to relevant case law and statutes. Members of the monitoring team specifically met with the Advanced Training Sergeant assigned to this paragraph. During the monitoring time frame that was reviewed for this paragraph, (June 1, 2015 thru November 30, 2015) there was one case law change (Department Special Order 15-23) that affected the APD. The Advanced Training Sergeant explained the process in place to accomplish this task. The Order is received from the Court, submitted to the APD. The APD submits Order down the chain to the Academy to the Advanced Training Sergeant. The Advanced Training Sergeant reviews material and enters approved changes into PDMS, or if a presentation is necessary the Order is entered into PSU. A review of PDMS records revealed that +95% of APD personnel reviewed the material. APD was compliant with the requirements of this paragraph. The monitoring team will continue to monitor the implementation of this paragraph in future site visits.

**Compliance**

| | |
|---|---|
| **Primary:** | **In Compliance** |
| **Secondary:** | **In Compliance** |
| **Operational:** | **In Compliance** |

### 4.7.131 Compliance with Paragraph 155: Management of FTO Program

Paragraph 155 stipulates that:

**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.**

## Methodology

During the second monitoring site visit, members of the monitoring team met with Training Academy Personnel responsible for the Field Training and Evaluation Program. This section was recently moved from the Operations Review section to the Academy and assigned a new FTO coordinator. The members of the monitoring team discussed the changes that needed to be made to the Field Training and Evaluation Program Operational Manual. The draft copy reviewed contained changes that would constitute compliance with the requirements of the CASA. However, the monitor has not received a final copy of those changes to manual from the APD.

## Results

| | |
|---|---|
| **Primary:** | **Not Yet Due** |
| **Secondary:** | **Not Yet Due** |
| **Operational:** | **Not Yet Due** |

### 4.7.132 Compliance with Paragraph 156: FTO Policies

Paragraph 156 stipulates that:

**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.**

## Methodology

During the second monitoring site visit, members of the monitoring team met with Training Academy Personnel responsible for the Field Training and Evaluation Program. This section was recently moved from the Operations Review section to the Academy and assigned a new FTO coordinator. Although the Final Policy for the FTO program has not been received, a review of the draft policy was conducted with the Academy staff. Documentation to support that the trainees received 16 weeks of documented field training was reviewed and verified. The +95% threshold was met during the time frame for this report. The draft policy also showed that the provision for early release was removed ensuring that no recruit would be released from the program until a minimum of 16 weeks of training was received. Despite the fact that the +95% threshold was met, the final policy for the FTO program has not been received, therefore the APD is not in compliance.

**Results**

| | |
|---|---|
| **Primary:** | **Not Yet Due** |
| **Secondary:** | **Not Yet Due** |
| **Operational:** | **Not Yet Due** |

### 4.7.133 Compliance with Paragraph 157: Qualifications for FTOs

Paragraph 157 stipulates that:

**APD shall revise the qualifications for Field Training Officers to require four 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.**

During the second monitoring site visit, members of the monitoring team met with the Training Academy Personnel responsible for the Field Training and Evaluation Program. This section was recently moved from the Operations Review Section to the Academy and assigned a new FTO coordinator. Although the final policy for the FTO program has not been received by the monitoring team, a review of the draft policy was conducted with the Academy staff. Documentation was reviewed by the monitoring team supporting the requirement of this paragraph that stipulates that FTO's have four years of non-probationary experience as a sworn officer. The draft policy also requires that the FTO's have a demonstrated commitment to constitutional policing, ethics, and professionalism. Documentation to support this requirement was also met. A complete list of the department's FTOs was supplied and a random 20% of that population was selected. The +95% threshold was met for the time frame for this report. Upon the completion of the policy the FTO program will be in compliance.

**Results**

| | |
|---|---|
| **Primary:** | **Not Yet Due** |
| **Secondary:** | **Not Yet Due** |
| **Operational:** | **Not Yet Due** |

### 4.7.134 Compliance with Paragraph 158: FTO Training Requirements

Paragraph 158 stipulates that:

**New Field Training Officers and Area Sergeant Coordinators shall receive at least 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.**

### Methodology

During the second monitoring site visit, members of the monitoring team met with the Training Academy Personnel responsible for the Field Training and Evaluation Program. This section was recently moved from the Operations Review Section to the Academy and assigned a new FTO coordinator. The Academy has revised its Policies/Procedures for the FTO program, and they are currently in the review process. A review of the draft policy was conducted with the Academy staff. The 40-hour training block of instruction is in the developmental stage that will include community oriented policing, de-escalation techniques, and effective problem solving as well as management and supervision to fulfill the requirements of this paragraph.

### Results

**Primary: Not Yet Due**
**Secondary: Not Yet Due**
**Operational: Not Yet Due**

### 4.7.135 Compliance with Paragraph 159: Rotating Commands and Shifts for Field Training

Paragraph 159 stipulates that:

**Recruits in the field-training program shall be trained in multiple Area Commands and shifts and with several Field Training Officers.**

### Methodology

During the second monitoring site visit, members of the monitoring team met with the Training Academy Personnel responsible for the Field Training and Evaluation Program. This section was recently moved from the Operations Review Section to the Academy and assigned a new FTO coordinator. The Academy has revised its Policies/Procedures for the FTO program, and they are currently in the review process. A review of the draft policy was conducted with the Academy staff. A section is added to the revision of the policy stipulating that a recruit officer will be assigned to all phases of training. The Academy staff supplied the monitor with the Field Services Bureau Special Orders that indicates the assignment changes during the time frame monitored for this report. The program has a 100% percent compliance rate and will meet the requirements of this paragraph upon completion of its Policy/Procedures.

**Results**

**Primary: Not Yet Due**
**Secondary: Not Yet Due**
**Operational: Not Yet Due**

### 4.7.136 Paragraph 160: Confidential Feedback on Field Training

Paragraph 160 stipulates that:

**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.**

**Methodology**

During the second monitoring site visit, members of the monitoring team met with the Training Academy Personnel responsible for the Field Training and Evaluation Program. This section was recently moved from the Operations Review Section to the Academy and assigned a new FTO coordinator. The Academy has revised its Policies/Procedures for the FTO program, and they are currently in the review process. A review of the draft policy was conducted with the Academy staff. The Academy utilizes Survey Monkey Analyze to monitor confidential feedback regarding the quality of their field training. The monitor conducted a thorough review of the random 20% sample, provided by the Academy Staff, to ensure that the responses were reflective of their day-to-day activities and an indication of the pros and cons of their experiences in the FTO program. During the time frame for this report, the Academy did not have a system to track and evaluate the FTOs and their trainees. This is an essential element that must be fulfilled in order to measure the reasoning behind any responsive action taken or the decision to take no action. They have since purchased new software to accomplish this portion of the paragraph requirement. The monitoring team will continue to monitor progress on all training elements of the paragraph on future site visits.

**Results**

**Primary: Not Yet Due**
**Secondary: Not Yet Due**
**Operational: Not Yet Due**

### 4.7.137 Compliance with Paragraph 161: Support for FTOs

Paragraph 161 stipulates that:

**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.**

## Methodology

During the second monitoring site visit, members of the monitoring team met with the Training Academy personnel responsible for the Field Training and Evaluation Program. This section was recently moved from the Operations Review Section to the Academy and assigned a new FTO coordinator. The Academy has revised its Policies/Procedures for the FTO program, and they are currently in the review process. A review of the draft policy was conducted with the Academy staff. An Interoffice Memorandum was generated to address the current staffing levels and what they should be as a result of the demands of the CASA, and submitted through the chain of command to Support Services. The results of the staffing study conducted by the consultant, the Weiss Team, had just been addressed at the conclusion of this site visit and did not have an impact on the Academy at that time. As of the date this report was written there is no formal definition of "necessary support and resources" for the APD Training Academy.

**Primary:** **Not Yet Due**
**Secondary:** **Not Yet Due**
**Operational:** **Not Yet Due**

### 4.7.138 Compliance with Paragraph 162: Accountability for Conduct

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.**

## Methodology

Members of the independent monitoring team had several meetings during the site visit, meeting with personnel from the Internal Affairs Bureau (IA) and the Civilian Police Oversight Agency (CPOA). The monitoring team also conducted visits to substations and reviewed procedures for informing the public of its right to lodge a complaint and procedures for taking complaints. The monitoring team also reviewed stratified random samples of IA and CPOA investigations completed during the monitoring period of June 1 through November 30, 2015, including the imposition of discipline. Total investigations

review were 14 IA investigations and 17 CPOA investigations. The monitoring team also reviewed rules, regulations and orders containing policies related to the internal affairs process.

**Results**

This is the overarching paragraph pertaining to the IA function. As such, full compliance with this paragraph cannot be achieved until all paragraphs pertaining to the IAB and CPOA functions of APD are in compliance. The reader is directed to paragraphs 162-202, and 271-292, below for a paragraph-by-paragraph discussion of compliance at these two entities. Overall, however, the monitoring team is able to draw some critical impressions regarding IAB and CPOA functions for this reporting period. Firstly, the monitoring team continues to be impressed with the cooperation, professionalism and commitment of the IAB and CPOA personnel.

A review of randomly selected IAB and CPOA investigations by the monitoring team during this site showed some trends that are concerning. CPOA cases are backlogged resulting in inordinate delays and cases where discipline cannot be imposed due to the time limitations of the Collective Bargaining Agreement (CBA). In IA investigations the monitoring team notes that IA does not make investigative findings. The IA presents its investigation without investigative findings to the Supervisory Chain of the subject officer. Thus the expertise of IA and its close working knowledge of the facts of the case do not factor into making investigative findings. This is of particular concern in cases requiring credibility determinations. Investigative findings are now made by the subject officer's command, which has the potential of introducing one's personal knowledge and opinion of the subject officer into the findings equation. The monitoring team highly recommends that IA consider making investigative findings in its investigative reports unless this is precluded by labor contracts, state statute or other restrictive covenants.

The monitoring team has noticed several cases, both CPOA and IA, where witnesses to a police-citizen encounter were not interviewed. All witnesses should be interviewed unless there is a cogent reason not to do so. If the investigator feels an interview is not necessary in order to conclude the investigation, or has tried to contact a witness without success, or there is some other valid reason for not conducting a witness interview, a short statement of explanation should be included in the investigative packet.

A Chart of Sanctions / Progressive Discipline Matrix with disciplinary guidelines (ranges of discipline) has been established and is generally followed. When punishment deviates from the ranges established in the guidelines the monitoring team has not found an abuse of discretion. The guidelines contain discipline ranges for each classification of offense, with the classifications ranging from 1 through 7. The problem is that the APD has not classified every violation of an SOP or general order. Where a violation is

unclassified a similar violation that is classified is to be used as a guide. This has the potential of introducing undue complexity and subjectivity into the recommendations for imposition of discipline. The monitoring team highly recommends that each potential violation be classified for purposes of the Chart of Sanctions/ Disciplinary Matrix Guidelines.

The monitoring team recommends an articulation of reasons in every instance where final discipline imposed does not follow the disciplinary matrix guidelines range, where progressive discipline is not followed, or recommendations of investigative or reviewing authorities are not followed. Deviations are acceptable where appropriate; however, a careful consideration of mitigating and/or aggravating circumstances or other reasons should be evidenced by a succinct statement of reasons.

### 4.7.139 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 Bureau 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 Bureau. Failure to report or document alleged misconduct or criminal behavior shall be grounds for discipline, up to and including termination of employment.**

### Methodology

The monitoring team reviewed stratified random samples of IA and CPOA investigations completed during the monitoring period, and had several meetings during the site visit with IA and CPOA personnel regarding the operations of their offices.

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Status, AO 3-43 Comment). It is expected that upon the revision and formal adoption of AO 3-43, the APD will be in primary compliance of this task.

- The monitoring team considers the "immediacy" of a supervisor's ligation to document and report misconduct as one of reasonableness under the totality of circumstances.

- A review of randomly selected IAB and CPOA investigations by the monitoring team during this site did not reveal any instance of a supervisor failing to "immediately document and report" alleged misconduct to IA.

- A CPOA investigation astutely pointed out that there is a discrepancy between this paragraph and, 3-43-3G5 which allows for discretion of the supervisor in handling a misconduct complaint. The monitoring team recommends that APD amend to comply with this paragraph.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.140 Assessing Compliance with Paragraph 164: Public Information on Civilian Complaints

Paragraph 164 stipulates:

**Within six months of the Effective 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.**

**Methodology**

Members of the monitoring team visited four of the six substations during this site visit as well as the IA and CPOA offices. The monitoring team conducted interviews of IA, CPOA and substation personnel to determine if procedures are in place to inform the public of its right to lodge a complaint, the different methods and procedures for doing so, and also viewed APD and CPOA websites and relevant materials..

All inspections conducted this site visit revealed that personnel at substations are knowledgeable of complaint procedures and the substations contain informative materials in English and Spanish relevant to the IA process. Displayed brochures were informative and user-friendly, and accurately depicted the complaint filing and resolution process. Further, websites were informative and user-friendly.

The CPOA publication materials include posters, brochures, and complaint forms, all of which are acceptable to the monitoring team in terms of format and content. CPOA posters and brochures list TTY (Teletypewriter) and the internet as appropriate ways for the hearing impaired to interact with the Agency. Brochures and posters are available in English and Spanish.

The APD complaint forms and related informative materials were also acceptable to the monitoring team. Access attempts at websites, and inspections of facilities all indicated adequate compliance at greater than 95 percent.

The APD draft policy (Administrative Order) was returned to APD as insufficient and needing a comprehensive rewrite and edit. The monitor notes this is a common theme with APD, and as such indicates a need for a refocus and upgrade of this critical piece of the compliance effort.

CPOA policies and procedures were submitted to the monitoring team and at the time of preparation of this document have not been approved. We expect that the APD and CPOA will be in full compliance with this paragraph once the underlying policies are completed, reviewed and approved.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.141 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.**

**Methodology**

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to this paragraph's tasks at the IA and CPOA offices. Staff also conducted unscheduled visits/inspections at four of the six APD substations.

**Results**

Members of the monitoring team reviewed the brochures available at the substations visited. They found the brochures were readily available, informative and user-friendly. The monitoring team also found related City websites to be informative and user-friendly.

APD and CPOA is > 95 percent compliant with web access attempts and station visits by the monitoring team. The team will continue "live visits" during

the next site visit, and will assess availability at City Hall, public libraries, and community centers. APD and CPOA will be in full compliance with this paragraph once the underlying policies are completed, reviewed and approved.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.142 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.**

#### Methodology

The monitoring team visited the IA offices and CPOA offices as well as 4 of 6 substations. Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the internal affairs process, and reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period.

#### Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Status). It is expected that upon adequate revision and formal adoption of AO 3-43, the APD will be in primary compliance of this task. Informational placards are located in all (>.95) of the locations inspected. During the next site visit, the monitoring team will conduct inspections of Police Vehicles for complaint forms. Other City facilities, as outline in Paragraph 165 will also be assessed at that time.

A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit did not reveal any investigation involving the failure to provide requested information to a prospective complainant or any instance

where a supervisor was not informed when a complainant indicated the desire to make a complaint.

One investigation involved the allegation of failure to provide information regarding the complaint process. That allegation was unfounded.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.143 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.**

#### Methodology

The monitoring team reviewed forms and instructions on the civilian complaint process, reviewed the information given to members of the public by way of substation visits and interviews, and reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period.

#### Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, "Results"). We expect that upon revision and formal adoption of AO 3-43, the APD will be in primary compliance of this task. Complaint forms have been revised, and have been approved by the monitoring team.

The revised complaints forms, information and instructions are compliant with the requirement that reporting forms do not discourage civilians from submitting complaints.

The APD website under "Steps for Filing a Misconduct Complaint" states that "Citizens must be aware of the city ordinance which governs false reports and states that it is unlawful for any person to intentionally make or file with any law enforcement agency any false, misleading, or unfounded report or statement." Although true, this can be construed as discouraging civilians from submitting complaints and should be revised.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**

Operational: **Not Yet Due**

### 4.7.144 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.**

#### Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a 14 of Internal Affairs investigations that were completed during this monitoring period.

#### Status

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Status). Upon revision, approval by the monitoring team and formal adoption of AO 3-43, the APD will be in primary compliance of this task.

Brochures and complaint forms were reviewed by the monitoring team, as were the APD and CPOA Websites. All (>.95) informational material was posted in English and Spanish. During the next site visit, inspections will be conducted of police vehicles for complaint forms and informational materials.

The APD website, specifically the Internal Affairs and Contact the Police windows, both lead to a "Report Police Misconduct" window, which lists substations and government offices where complaint forms can be obtained with addresses and telephone numbers and also allows for submitting complaint online. The APD website Homepage does not directly lead to a Report Police Misconduct window and should be revised.

#### Compliance

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.145 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.**

## Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a 14 of Internal Affairs investigations that were completed during this monitoring period.

## Results

Members of the monitoring team were provided a spreadsheet, generated by the APD's PowerDMS intra-agency training platform. The document provided by the system indicates that the APD trained its personnel regarding complaint intake, classification and tracking during the time period of for this report. Data indicate that the agency trained 94.8 percent of the sworn and civilian workforce, with the remainder, those not trained, being shown on various forms of temporary duty, injury leave, military leave, FMLA leave, etc. The 94.8 percent "rounds up" to a .95 compliance rate; however, the monitoring team has expressed some concerns to APD about two issues which are currently being researched and responded to.

1. The first of these involves those full-time employees who were on leave and not tested in April and May of 2015. The monitoring team needs to know if any of those have returned to work, and how many of those have taken the intake training and have been tested; and

2. The second issue involves a lack of test data demonstrating employee mastery of the data produced and reviewed through Power DMS (test dates, data test questions, and test scores are currently not available to the monitoring team).
3. The fourth involves a probable data management error that showed some participants finishing the training process before they were shown to have started.

The monitoring team notes that items 1-3 were mentioned in the first monitoring report, and have not yet been corrected. <u>The APD is cautioned to ensure that, whenever possible, issues addressed in one monitoring report are corrected prior to the next monitoring site visit.</u>

In conversations with APD personnel in prefatory phases of the monitoring process, the monitoring team was informed verbally that testing outcomes, use data (how much time was spent per page of DMS product, etc.) would be

available by participant. The monitoring team will review those data as they come available.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.146 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection14 of Internal Affairs investigations that were completed during this monitoring period.

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). The monitoring team review of investigations during this site visit showed complaints more than ninety (90) days old being accepted and at least one complaint accepted where the date of incident was two years old at the time of filing the complaint.

The monitoring team review of investigations during this site visit did not show any complaints being rejected as "late," and in fact revealed some complaints that were investigated despite being several years old. The Civilian Police Oversight Agency informational brochure both addresses and encourages the benefit of filing complaints in a timely manner.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.147 Assessing Compliance with Paragraph 171: Prohibition of Refusal to Take Complaint

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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of 14 Internal Affairs investigations that were completed during this monitoring period.

### Results

The monitoring team has not yet been provided a copy of the regulation or order making the violation of this paragraph a ground for discipline. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed only one investigation involving the allegation of failure to provide information regarding the complaint process, and that allegation was correctly unfounded.

A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit did not reveal any investigation involving the discouraging of filing a complaint or the giving of false or misleading information about filing a misconduct complaint.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.148 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this

paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of 14 Internal Affairs investigations that were completed during this monitoring period.

**Results**

Policy mandating acceptance of all complaints is contained in AO 3-43, currently under review (see also paragraph 164, Results). The CPOA Complaint Form highlights that complaints may be submitted anonymously or on behalf of another person. The CPOA Complaint Form is also produced and available in Spanish.

The CPOA informational brochure also highlights that complaints may be made in writing or verbally, in person or by mail, telephone, facsimile, or online/electronic mail, and allows for the downloading of the complaint form.

The monitoring team reviewed investigations that were started in a variety of ways-email, telephone calls and on site complaints. The monitoring team has uncovered no refusal or reluctance to accept a complaint. The CPOA Complaint Form highlights that complaints may be submitted anonymously or on behalf of another person. The CPOA Complaint Form is also produced and available in Spanish, and the accompanying informational brochure highlights that complaints may be submitted anonymously or on behalf of another person The informational brochure also highlights that complaints may be made in writing or verbally, in person or by mail, telephone, facsimile, or online/electronic mail, and allows for the downloading of the complaint form.

The APD website (Misconduct Complaint) website makes clear that complaints may be submitted online or by obtaining complaint forms at substations and government offices and lists the specific substations and offices with addresses and phone numbers. In addition, he APD website (Misconduct Complaint) does not specify that complaints may be made verbally, by mail, telephone or by facsimile, and does not allow for the downloading of the complaint form.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.149 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 Bureau by the end of the shift following the shift in which it was received.**

### Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of 14 Internal Affairs investigations that were completed during this monitoring period.

### Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). The monitor expects that upon revision and formal adoption of AO 3-43, the APD will be in primary compliance with this task. The timeliness of submitting complaints required by this paragraph is not a statistic that is separately tracked at the current time; however, a review of randomly selected IAB and CPOA investigations by the monitoring team during this site did not reveal any violations of the policy required by this paragraph. A CPOA investigation astutely pointed out that there is a discrepancy between this paragraph and 3-43-3G5, which allows for discretion of the supervisor in handling a misconduct complaint. The monitoring team recommends that APD amend its proposed policy to comply with this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.150 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of 14 Internal Affairs investigations that were completed during this monitoring period.

### Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). It is expected that upon formal adoption of AO 3-43, the APD will be in primary compliance of this task. Although AO 3-43 contains the requirement to comply with this paragraph, there is no system described or in place that would ensure that such allegations made during civil or criminal proceedings would be identified and assessed. The monitoring team strongly suggests that APD modify AO 3-43 accordingly.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.151 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.**

### Methodology

Members of the monitoring team reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period and assessed the complaints to determine source and process.

### Results

A review of completed investigations reveals investigations that clearly show whether a complainant is homeless or has mental illness. There is currently no written policy requiring a separate tracking of allegations regarding misconduct involving individuals who are known to be homeless or have a mental illness. Although all allegations of misconduct are tracked, there currently is no special tracking of misconduct complaints involving an individual(s) who is homeless or has mental illness. The monitoring team recommends that the requirements of this paragraph be memorialized in IA and CPOA policy.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**

Operational: **Not Yet Due**

### 4.7.152 Assessing Compliance with Paragraph 176: Centralized Complaint Numbering System

Paragraph 176 stipulates that:

**Within six months of the Operational Date, the Internal Affairs Bureau, 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 Bureau 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.**

#### Methodology

Members of the monitoring team reviewed a sample of the complaints made in the IA and CPOA cases reviewed during the monitoring period to determine numbering protocols.

#### Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Status, AO 3-43 Comment). It is expected that upon revision and formal adoption of AO 3-43, the APD will be in primary compliance of this task. A centralized numbering and tracking system has been implemented.

Although centralized system is utilized, the CPOA will utilize an identifier starting with "CPC" and IA will utilize an identifier starting with "I". The monitoring team has been provided "screen shots" of data entry in inquiry screens from the APD/CPOA data management systems that show "sequencing" numbers for complaints received at APD. Policies to support this data system, and that allow APD, CPOA and the monitoring team to assess the "shall be provided to the complainant" portion of this requirement are, as of this date, pending. The IAB manages the tracking system, and assigns the identifier to complaints investigated by IAB and CPOA. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site revealed that in all cases (>.95) where complainant contact information is available the identifier is given to complainants as well as letters to civilian complainants explaining the outcome of investigation and containing the unique numerical identifier.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.153 Assessing Compliance with Paragraph 177: IAB Complaint Data Management

Paragraph 177 stipulates:

**The Internal Affairs Bureau'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.**

#### Methodology

Members of the monitoring team reviewed a sample of the complaints made in the IA and CPOA cases to determine tracking system protocols present or calculable, as well as documentation related to the IA process and discussions with IA and CPOA personnel.

#### Status

Members of the monitoring team have seen no regulations or orders setting forth the requirements of this paragraph. The IAB tracking system has the ability to identify various pieces of relevant information and to produce data relevant to the IA function.

A review of a randomly selected sample of investigations shows that >.95 of IA/CPOA cases reflect tracking system requirements. Further, the IAB tracking system has the ability to identify various pieces of relevant information and to produce data relevant to the IA function.

The monitoring team also viewed a MRIAD Sort Report containing a Case #, Incident Date, Entry Date and Case Status along with subject identifying information for all Internal Affairs investigations closed during the monitoring period. In addition, the monitoring team also viewed an IA-PRO report that contained the allegations and case disposition for all Internal Affairs investigations closed during the monitoring period, as well as a similar CPOA report from which the monitoring team selected a stratified random sampling of investigations to review. The monitoring team was unable to monitor this site visit whether the system was used for periodic assessment of compliance with APD policies and procedures and this Agreement.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.154 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 Bureau. All information should be referred to the Internal Affairs Bureau by the end of the shift following the shift in which the misconduct complaint was received, absent exceptional circumstances.**

#### Methodology

Members of the monitoring team reviewed a random selection of 31 IA and CPOA and their underlying complaints to determine receipt and processing methods, as well as conducted discussion with IA and CPOA personnel.

#### Results

Policy mandating compliance with this paragraph is contained in AO 3-43, (see also paragraph 164, Results), currently under review. It is expected that upon revision and formal adoption of AO 3-43, the APD will be in primary compliance of this task. The timeliness of submitting complaints required by this paragraph is not a statistic that is separately tracked at the current time and can only be determined on a case-by-case review. The monitor will continue to assess progress on this requirement in scheduled monitor's reports.

A review of randomly selected investigations by the monitoring team did not reveal any violations of this paragraph. A CPOA investigation astutely pointed out that there is a discrepancy between this paragraph and 3-43-3G5, which allows for discretion of the supervisor in handling a misconduct complaint. The monitoring team recommends that APD amend 3-43-3G5 to comply with this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.155 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 Bureau shall refer the complaint to the Civilian Police Oversight Agency.**

**Methodology**

Policy mandating compliance with this paragraph is contained in AO 3-43, (see also paragraph 164, Results), currently under review. It is expected that upon revision and formal adoption of AO 3-43, the APD will be in primary compliance of this task. The timeliness of submitting complaints required by this paragraph is available in each individual investigation although the monitoring team was unable this site visit to verify whether it is a statistic that is separately tracked.

Members of the monitoring team reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period, and assessed their underlying complaints to ensure compliance to the three-day requirement

**Results**

Policy mandating compliance with this paragraph is contained in AO 3-43, (see also paragraph 164, Status), currently under review. The monitoring team expects that, upon revision and formal adoption of AO 3-43, the APD will be in primary compliance of this task.

The timeliness of submitting complaints required by this paragraph is not a statistic that is separately tracked at the current time and can only be determined on a case-by-case review. APD and CPOA should assess the viability of modifying automated systems to "time" the three-day referral process, with automatic "error" reports when necessary. A review of randomly selected investigations by the monitoring team during this site visit did not reveal any violations of the policy required by this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.156 Assessing Compliance with Paragraph 180: Handling of Internal Complaints by IAB

Paragraph 180 stipulates:

**Internal misconduct complaints submitted by APD personnel shall remain with the Internal Affairs Bureau for review and classification. The Internal Affairs Bureau shall determine whether the internal complaint will be assigned to a supervisor for investigation or retained by the Internal Affairs Bureau for investigation. In consultation with the Chief, the commanding officer of the Internal Affairs Bureau shall also determine whether a civilian or internal complaint will be investigated criminally by the Internal Affairs Bureau, the Multi- Agency Task Force, and/or referred to the appropriate federal law enforcement agency.**

**Methodology**

Members of the monitoring team reviewed a random selection of 14 IA investigations that were completed during this monitoring period and their underlying complaints to ensure proper routing and classification, as well as reviewed documents pertaining to the IA system and conduct meetings/discussion with IA personnel.

**Results**

Draft Policy 2-05 sets forth the requirements of this paragraph including that the IAB commander, in consultation with the Chief, determines whether a civilian or internal complaint will be investigated criminally by the Internal Affairs Bureau, the Multi- Agency Task Force, and/or referred to the appropriate federal law enforcement agency. Policy mandating compliance with this paragraph is contained in AO 2-205, currently under review by the APD. It is expected that upon revision and formal adoption of AO 2-205, the APD will be in primary compliance of this task.

A review of randomly selected IA investigations by the monitoring team during this site visit showed that IA accepts, reviews, and classifies internal complaints. The review of randomly selected IA investigations showed that in all cases (>.95) IA determines whether the matter is handled by IA or assigned to the appropriate supervisor for investigation. The review of randomly selected IA investigations did not reveal any abuse of discretion in determining which matters are assigned to the appropriate supervisor and which matters are handled by IA personnel.

The review of randomly selected IA investigations during this site visit did not reveal any case of potential criminality requiring the use of discretion by the IA Commander in deciding whether to refer the matter to another law enforcement agency.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

**4.7.157 Assessing Compliance with Paragraph 181: IAB 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 Bureau in determining where an internal complaint should be assigned.**

## Methodology

Members of the monitoring team reviewed a random selection of 14 IA investigations that were completed during this monitoring period and their underlying complaints to determine whether complaints are routed by a protocol that is allegation based, and properly routed and classified, as well as reviewed documents pertaining to the IA system and conduct meetings/discussions with IA personnel.

## Results

The monitoring team has not yet viewed the SOP or Orders requiring the internal affairs complaint classification protocol set forth in this paragraph by members of the APD. The protocol that is currently followed is based on the nature of the allegations and the anticipated corresponding complexity of investigation in deciding whether to assign a case to the appropriate supervisor or to retain the case in the IA. The decision-making in determining where an internal complaint should be assigned is impacted by the current shortage of personnel in IA.

A review of randomly selected IA investigations by the monitoring team during this site visit revealed > .95 of complaints were reasonably and properly routed and classified based on nature of allegations, with no instance of an abuse of discretion in determining which matters are assigned to the appropriate supervisor and which matters are handled by IA. Based on previous experience, the monitor is concerned about the apparent staffing shortage in IA, and will monitor timeliness of IA work processes carefully to ensure that this apparent shortage does not affect the quality or timeliness of IA investigations.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.158 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**

### Methodology

Members of the monitoring team reviewed a random selection of 14 IA investigations that were completed during this monitoring period and their underlying complaints, to ensure reasonable and proper routing, classification, and assignment for investigation, as well as reviewed documents pertaining to the IA system and conduct meetings/discussions with IA.

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). It is expected that upon formal adoption of AO 3-43, the APD will be in primary compliance of this task. A review of randomly selected IAB investigations by the monitoring team during this site did not reveal any violations of the policy required by this paragraph.

### Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Status). It is expected that upon formal adoption of AO 3-43, the APD will be in primary compliance of this task.

A review of randomly selected IA investigations by the monitoring team during this site visit revealed that >.95 of complaints were reasonably and properly routed and classified based on nature of allegations, with no violations of the policy required by this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.159 Compliance with Paragraph 183: Investigation 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.**

### Methodology

Members of the monitoring team reviewed a random selection of 14 IA investigations that were completed during this monitoring period and their underlying complaints to ensure investigations were thorough enough to reach reliable and complete findings, that complainants were interviewed and the interview was recorded and transcribed, and that officer witnesses either gave a written statement or were interviewed in the IA process.

**Results**

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). It is expected that upon formal adoption of AO 3-43, the APD will be in primary compliance of this task.

**A review of randomly selected IA and CPOA investigations by the monitoring team during this site visit showed investigative deficiencies in 8 of 31 investigations cases (74%, clearly <.95) consisting of failure to interview witnesses (or provide logical explanation why interview not necessary or not practicable), failure to follow logical steps; group interview, and incorrect citation of disciplinary record in investigative narratives.** Investigations were thorough enough to generally support findings and conclusions in relation to the allegations and circumstances of the reviewed cases.

Greater than .95 of all complaints investigated by IA and CPOA indicate a formal interview of each complainant, recorded and transcribed, unless the complainant lodged specific and formal objections to recording or otherwise was unavailable or uncooperative. A review of randomly selected IA and CPOA investigations by the monitoring team during this site visit showed relevant officer witnesses either provided written statements or were interviewed in the IA process.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.160 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.**

### Methodology

Members of the monitoring team reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period. The monitor reviewed the underlying complaints to ensure that all misconduct complaints are investigated and that the reports adequately document the investigation, its findings, and its conclusions in writing. Further the team assessed whether findings and conclusions are documented in writing, and that the investigations ensure reasonable adherence to the policies regarding mediation and the administrative closure of complaints. The team also had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, and reviewed documents related to the IA process.

### Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). It is expected that upon formal adoption of AO 3-43, the APD will be in primary compliance of this task. A review of randomly selected IA and CPOA investigations by the monitoring team during this site visit showed that all misconduct complaints are investigated and findings and conclusions are documented in writing. A review of 31 randomly selected IA and CPOA investigations by the monitoring team during this site visit revealed no cases selected for mediation, therefore the monitoring team was unable to monitor this aspect of the paragraph.

A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed one administratively closed matter that did not contain enough information to determine whether the use of discretion in administratively closing the matter was appropriate. The monitoring team will follow up with IAB by requesting additional information regarding this case.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.161 Assessing Compliance with Paragraph 185: Required Cooperation with IAB/CPOA

Paragraph 185 stipulates:

**APD shall require personnel to cooperate with Internal Affairs Bureau 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.**

### Methodology

Members of the monitoring team reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period, and assessed their underlying complaints to ensure reasonable adherence to the requirement to cooperate, and also reviewed documents such as the Collective Bargaining Agreement (CBA) and policies under review by the monitoring team related to the IA process.

### Results

The Collective Bargaining Agreement requires compliance with the policy of this paragraph. Policy mandating compliance with this paragraph of the CASA is also contained in AO 3-43, currently under review. A review of 31 randomly selected IA and CPOA investigations by the monitoring team during this site did not reveal any instances of non-compliance with the tasks of this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.162 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.**

### Methodology

Members of the monitoring team reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period and their underlying complaints to ensure appropriate separation of cases to

administrative and criminal investigations, and to ensure appropriate consultation with prosecutorial agencies. Discussions regarding processes were also held with personnel of the IA and CPOA.

**Results**

Policy mandating compliance with this paragraph is contained in AO 2-05, currently under review. It is expected that upon revision and formal adoption of AO 2-05, and protocols to ensure that criminal and administrative investigations are kept appropriately separate, the APD will be in primary compliance of this task.

A review of 31 randomly selected IA and CPOA investigations by the monitoring team completed during this monitoring period revealed no cases where an APD employee refused to give a voluntary statement and therefore the monitoring team was unable to monitor this aspect of the paragraph.

A review of 31 randomly selected IA and CPOA investigations by the monitoring team during this monitoring period revealed one case where the allegation of a non-felony (simple assault) was made by a non-complainant witness against a co-employee. The witness was given the opportunity to file a charge but declined to do so. The monitoring team found IA appropriately handled the matter.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.163 Assessing Compliance with Paragraph 187: Advisement of Officer Rights

Paragraph 187 stipulates:

**Advisements by the Internal Affairs Bureau 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.**

**Methodology**

Members of the monitoring team reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period and their underlying complaints to ensure that Fifth Amendment rights are only given where there is a reasonable likelihood of a criminal investigation or prosecution of the subject employee. Discussions regarding processes were also held with personnel of the IA and CPOA

## Results

Collective Bargaining Agreement, 20.1.8, requires Miranda Rights be given in accordance with "the Miranda Decision or applicable law." The monitoring team points out that "reasonable likelihood of a criminal investigation or prosecution" and the requirements of "the Miranda Decision or applicable law" are different standards that could under certain circumstances cause confusion of application.

Members of the monitoring have seen no other regulations or orders setting forth the requirements of this paragraph. **A review of 31 randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed no cases where an APD employee was improperly advised of Fifth Amendment rights by IAB or CPOA.**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.164 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 Bureau 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 Bureau. The Internal Affairs Bureau 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 Bureau shall continue with the administrative investigation of the allegation. Consistent with Paragraph 186, the Internal Affairs Bureau 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 Bureau deems such interviews appropriate.**

### Methodology

Members of the monitoring team reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period and assessed their underlying complaints to ensure that investigations that may indicate criminal activity or conduct by the police employee result in prompt transfer to IA, prompt notification to the Chief of Police, and result in consultation between the Chief of Police and the appropriate federal or state law enforcement agencies, and result in a parallel track administrative and

criminal investigations. Discussions regarding processes were also held with personnel of the IA and CPOA.

**Results**

Policy mandating compliance with this paragraph is contained in AO 2-05 and 3-43, currently under review. Upon revision and formal adoption of these Orders, the APD will be in primary compliance of this task. A review of randomly selected IAB and CPOA investigations by the monitoring team during this monitoring period showed no cases where a concurrent criminal investigation was implicated or warranted and therefore the monitoring team was unable to monitor this aspect of this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.165 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.**

**Methodology**

Members of the monitoring team had several meetings and discussions during the site visit with IA and CPOA personnel regarding investigative processes and reviewed documents related to the Internal Affairs process. A review of a random sample of 31 IA and CPOA investigations files was also conducted to ensure compliance with the routine professional duties requirement of this paragraph

The requirement of consultation with the appropriate prosecuting agency in the event an employee invokes the privilege against self-incrimination is contained in AO 2-205, currently under review. It is expected that upon revision and

formal adoption of AO 2-205, the APD will be in primary compliance of this task.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.166 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 account 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.**

**Methodology**

Policy mandating compliance with this paragraph is contained in AO 2-205, currently under review. It is expected that upon revision and formal adoption of AO 2-205, the APD will be in primary compliance of this task. A review of 31 randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed that in all but one case all relevant evidence was considered. That same review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit showed investigative deficiencies in 8 of 31 investigations cases, (74%, clearly <.95) consisting of failure to interview witnesses (or provide logical explanation why the interview was not necessary or not practicable), failure to follow logical steps; conducting a group interview, and incorrect citation of disciplinary record in the investigative narrative.

The monitoring team does not believe these deficiencies changed the outcome of the investigations. The review revealed no instances of preference for an officer's statement over a non-officer's statement, nor did it reveal any instances where a witness' statement was disregarded because the witness

had some connection to the complainant or because of any criminal history. Further, the review showed no cases where an involved officer had been determined to have been deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation.

Although the findings in the overwhelming majority of cases are supported by a preponderance of the evidence, the monitoring team believes there can and should be improved articulation of policy guidance regarding credibility determinations. Corroboration should be made clear, and inconsistencies and other factors affecting credibility judgments must be addressed and weighed. It should be clear to all those who review the investigation and make recommendations, as well as to the Chief before imposition of discipline, why any statement or aspect of a statement is believed or not believed.

In CPOA investigations, investigative findings are made by the Executive Director of CPOA before the matter is referred to the Chief for discipline. However in IA investigations the IA does not make investigative findings. Thus the expertise of IA and its close working knowledge of the facts of the case do not factor into making the investigative findings. This is of particular concern in cases requiring credibility determinations. Investigative findings are now made by the subject officer's command, which has the potential of introducing one's personal knowledge and opinion of the subject officer into the findings equation. The monitoring team highly recommends that IA policy and practice be amended to allow or require IA to make investigative findings in its investigations.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.167Assessing Compliance with Paragraph 191: 90 Days to Complete Administrative Investigations

Paragraph 191 stipulates:

**All administrative investigations conducted by the Internal Affairs Bureau 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.**

**Methodology**

Members of the monitoring team reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period and their underlying complaints to ensure compliance with the time requirements of this paragraph, and to ensure the Chief's signed approval in cases of written requests for 30 day extensions. Discussions regarding IA processes were also held with personnel of the IA and CPOA.

**Results**

The Collective Bargaining Agreement, (CBA) requires compliance with the policy of this paragraph. Policy mandating compliance with this paragraph is contained in AO 2-205, currently under review. It is expected that upon revision and formal adoption of AO 2-205, the APD will be in primary compliance with this task.

A review of 17 randomly selected CPOA investigations by the monitoring team during this site visit revealed 8 investigations that were not completed on a timely basis. This number constitutes a compliance rate of only 53%. Even if the 14 IA investigations are factored in for a total of 31cases reviewed, the compliance rate would be 74%, still well below the .95 compliance mark.

A review of the eight untimely investigations revealed three (3) cases in which discipline could not be imposed due to the failure to comply with the time requirements of the Collective Bargaining Agreement (CBA). A review of randomly selected CPOA investigations revealed no instances in which the POB was able to make timely recommendations to the Chief.

The monitoring team is concerned about the ability of the POB to review investigations and make recommendations to the Chief within the time periods allowed for imposition of discipline. The Executive Director of the CPOA may make recommendations along with investigative findings, in lieu of the POB, to subject officer's supervisory chain and ultimately the Chief. The monitoring team highly approves this practice, particularly when there is not enough time to obtain input from the POB.

The monitoring team is concerned about the backlog of CPOA cases and/or personnel shortages which led to the lengthy processing times. Even where the CPOA processes cases on time, it many times involves a request for and granting of an extension. It appears from discussions with the CPOA Executive Director and Legal Counsel that significant improvements have been made regarding the timely processing of cases, which should start to be evident in the next monitoring period. The monitoring team will continue to monitor CPOA workflow for timeliness. To date, in all cases where

extensions were requested, written approval by the Chief was noted by his initialing of the request.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.1568 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.**

### Methodology

Members of the monitoring team reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period to ensure use of acceptable dispositions supported by the appropriate quantum of proof.

### Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Status). It is expected that upon formal adoption of AO 3-43, the APD will be in primary compliance of this task.

A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed one matter that was sustained without

punishment that should have been a finding of unfounded, and one matter where an incorrect investigative finding of sustained was correctly changed to not sustained at the Chief's level. This number constitutes a compliance rate of 93%, below the .95 compliance mark.

A review of randomly selected IA and CPOA investigations by the monitoring team during this site visit did not reveal any instances where an allegation should have been sustained when it was not. A review of 31 randomly selected cases during this site visit revealed that, except for the 2 matters referred to above, findings were supported by preponderance of the evidence.

A review of 31 randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed one administratively closed matter that did not contain enough information to determine whether the use of discretion in administratively closing the matter was appropriate.

The monitoring team is generally impressed with the comments and sincerity of recommendations made in the Supervisory Reviews of the investigations.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.169 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.**

### Methodology

Members of the monitoring team reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period to ensure to ensure appropriate review of administratively closed cases and those administratively closed cases that were later reopened. Discussions regarding IA processes were also held with personnel of the IA and CPOA.

### Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit did not reveal any cases that were administratively closed

and then reopened, thus the monitoring team was unable to monitor operational compliance with this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.170 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).**

#### Methodology

The monitoring team held meetings and discussions with IA and CPOA personnel to discuss investigative processes including the identification of policy and training issues arising out of internal affairs and misconduct complaint matters. The monitoring team also reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period to ensure that closed cases document whether actions taken by the officer were in compliance with legal standards, officer training, or suggest a need for changes in policy, procedure, or training.

#### Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). It is expected that upon formal adoption of AO 3-43, the APD will be in primary compliance of this task.

A review of randomly selected IA and CPOA investigations by the monitoring team during this site visit revealed a standard form used in all (>.95) investigations in compliance with this paragraph.

A review of 31 randomly selected IA and CPOA investigations by the monitoring team during this site revealed four of 31 cases where the monitoring team thought an issue should have been identified as a training or policy issue that were not so identified. This number constitutes a compliance rate of 87%, well below the .95 compliance mark.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.171 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.**

### Methodology

The monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and also reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period to ensure prohibition of discouragement, intimidation, coercion, or adverse action, against any person who reports misconduct, makes a misconduct complaint, or cooperates with an investigation of misconduct

### Results

For the second consecutive reporting period, members of the monitoring have seen no regulations or orders setting forth the requirements of this paragraph. We strongly recommend existing policy be revised to include this prohibition. A review of randomly selected IA and CPOA investigations by the monitoring team during this site did not reveal any cases involving violations of the policies contained in this paragraph. Nor did a review of materials including complaint forms and websites reveal any discouragement of making a complaint or report of misconduct.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.172 Assessing Compliance with Paragraph 196: Review of Anti-Retaliation Statements

### Paragraph 196 stipulates that:

**Within six months of the Effective Date, and annually thereafter, the Internal Affairs Bureau 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.**

### Methodology

Members of the monitoring team reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period to evaluate the handling of 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. Discussions regarding IA processes were also held with personnel of the IA and CPOA.

### Results

Policy mandating compliance with this paragraph is contained in AO 2-205, currently under review. The first review required by this paragraph has not yet been conducted; the APD and CPOA are still within the extended time period to conduct such a review. A review of randomly selected IA and CPOA investigations by the monitoring team during this site did not reveal any cases involving retaliation, thus the monitoring team is unable to monitor compliance with this paragraph for this reporting period. During the next monitoring visit the monitoring team will specifically seek investigations involving alleged incidents of retaliation that occurred or that were investigated during the reporting period, the discipline imposed for retaliation, and supervisors' performance in addressing and preventing retaliation.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.173 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.**

### Methodology

Members of the monitoring team conducted a review of IA and CPOA investigative reports for allegations of retaliation and outcomes of

investigations and discipline. The monitoring team also had several meetings during the site visit to discuss internal affairs processes with members of IA and CPOA and reviewed SOPs and general Orders.

**Results**

Members of the monitoring have seen no regulations or orders setting forth the requirements of this paragraph. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site revealed no instances of retaliation, implicating this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.174 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 Bureau 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.**

**Methodology**

The monitoring team met with IA and CPOA on several occasions including visits to their respective offices and inspection of physical space. The monitoring team also reviewed staffing charts and assessed the timelines of investigations that were randomly selected.

**Results**

The staffing requirements for the IAB are set forth in in AO 2-05, currently under review. It is expected that upon revision and formal adoption of AO 2-05, the APD will be in primary compliance of this task.

The staffing requirements for the IAB are set forth in in AO 2-205, currently under review. It is expected that upon revision and formal adoption of AO 2-205, the APD will be in primary compliance of this task. The monitoring team will be unable to assess compliance with this paragraph until the City completes its staffing study.

Currently, the staffing of IA as shown in the Organizational Chart is insufficient; indicating four sergeant vacancies and two detective vacancies. The IA staffing

shortages necessitate the outsourcing of investigations to Area Commands, thereby losing the expertise of the IA personnel, and potentially impacting the consistency of investigations. The monitoring team is concerned with the apparent lack of sufficient staffing of the CPOA and the status of training of its personnel and the potential of both to adversely impact its performance and processing times.

During the next site visit the monitoring team will not only review the completion times on selected investigations but will **also broaden its search to look at overall processing time statistics.**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.175 Assessing Compliance with Paragraph 199: IA Initial Training

Paragraph 199 stipulates:

**All APD personnel conducting misconduct investigations, whether assigned to the Internal Affairs Bureau, 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with IA Commander and his staff. Review of training records, including syllabi, video recordings of training (if any) exams (if any) related to specified training and attendance rosters is also to be conducted in order to complete the review and approval process of the training required in this paragraph.

### Results

The monitoring team has seen no regulations or orders setting forth the requirements of this paragraph. Nonetheless, the APD is still within the extended time period to conduct such training to be in full compliance with this paragraph, as the due date for this task is June 2, 2016.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.176 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 Effective 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.**

### Methodology

The monitoring team has several meetings during the site visit with the CPOA Executive Directive, Counsel and CPOA staff. Review of training records, including syllabi, video recordings of training (if any) exams (if any) related to specified training and attendance rosters was also conducted in order to complete the review and approval process of the training required in this paragraph.

### Results

Members of the monitoring have seen no regulations or orders setting forth the requirements of this paragraph. Further, members of the monitoring have seen no training records documenting compliance with this paragraph; the CPOA is still within the extended time period to conduct such training, as the due date for this task is June 2, 2016.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.177 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.**

### Methodology

The monitoring team reviewed a random selection of 31 IA and CPOA investigations that were completed during this monitoring period to ensure that discipline for sustained allegations of misconduct is that mitigating and aggravating factors are set out and applied consistently The monitoring team also met with the Chief and Deputy Chiefs as well as IA and CPOA personnel to discuss the internal affairs and disciplinary process.

### Results

Policy regarding the APD disciplinary system is set forth in General Order 1-09. Statistics regarding discipline imposed during the monitoring period showed a wide range of discipline imposed. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site did not reveal any instances where the monitoring team determined the discipline imposed was an unreasonable finding.

The monitoring team's review of randomly selected IAB and CPOA investigations by the monitoring team during this site did reveal one (1) case where progressive discipline was not followed and two (2) cases where the punishment imposed deviated from the General Order. Deviation in imposing punishment from progressive discipline matrix or from recommended discipline is not per se a violation of policy as long as justifiable reasons are present and are articulated for the record.

The monitoring team would expect adequate statements of reasons in instances where progressive discipline is not followed and/or punishment imposed differs from the recommendations of Chain of Command recommendations.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.165 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.**

### Methodology

The monitoring team reviewed disciplinary actions and rationale for same viz a viz the ranges of discipline within the Chart of Sanctions/Disciplinary Matrix. The monitoring team also reviewed the disciplinary matrix and related

documents and discussed the internal affairs and disciplinary processes with IA and CPOA personnel.

**Results**
Policy regarding the APD disciplinary system is set forth in General Order 1-09, the revised version of which is currently under review. Once the revised general order is approved by the monitoring, we expect the APD will be in primary compliance with this paragraph. Seven (7) classes of violations are listed in a Chart of Sanctions/ Disciplinary Matrix, and presumptive ranges of discipline are established for each class depending on whether it is a first offense, second offense or third/subsequent to third offense (frequency of occurrence). Although the policy mandates consideration of mitigating and aggravating circumstances, it fails to set out defined mitigating or aggravating circumstances.

The policy requires any deviation from the use of the sanctions to be justified by listing the mitigating or aggravating circumstances. The policy fails to provide that APD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline. Further, the policy fails to provide that APD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed. The monitoring team recommends this policy be rewritten to comply with the requirements of this paragraph.

The guidelines contain discipline ranges for each classification of offense, with the classifications ranging from 1 through 7. Unfortunately, APD has not classified every violation of an SOP or general order. Where a violation is unclassified a similar violation that is classified is to be used as a guide. This has the potential of introducing undue complexity and subjectivity into the recommendations for and imposition of discipline. The monitoring team highly recommends that each potential violation be classified for purposes of the Chart of Sanctions/Disciplinary Matrix Guidelines

The monitoring team strongly recommends this policy be rewritten to comply with the requirements of this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.179 Assessing Compliance with Paragraph 203-211

Paragraphs 203-211 are related to staffing, which is being addressed by a separate consultant. The results of the Weiss Team's staffing were not complete as of the operational dates established for this Monitor's Report. Once the results of that project are submitted, the monitoring team will opine on staffing only as it relates to the requirements of paragraphs 203-211.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.180 Assessing Compliance with Paragraph 212: Revision of EIS

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.**

#### Methodology

During the second site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, and identified current systems development progress, reviewed draft policies/procedures/protocols and expected due dates.

#### Status

APD continues the transition to a new EIS system. Development of "IAPro," which is a critical component of the EIS, is currently ongoing. Additional software—"Blue Team" is still in development and key members have attended training with Oracle to assist in implementation of the new systems. Supervisory training is in development but awaiting approval of new Policies/Procedures/Protocols. The requirement of this paragraph carries a timeline of "within nine months of the effective date" which would be March 2, 2016. The monitoring team strongly recommends that, once development plans are available, they be reviewed with the monitoring team to ensure that planned systems can be responsive to APD's management of CASA-related provisions.

#### Compliance

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.181 Assessing Compliance with Paragraph 213: EIS Thresholds

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.**

### Methodology

During the first site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, and identified current systems development processes and expected due dates. No new versions of the planned EIS system have been identified or reviewed by the monitoring team this period.

### Results:

Based on a review of the planned system, IAPro, as planned, appears to the monitoring team to have the capabilities called for in this paragraph. The system is not yet functional, and is still in the testing phase. As development proceeds, the monitoring team will follow it closely and provide feedback as needed and/or as requested by the APD. The monitoring team strongly recommends that, once development plans are available, they be reviewed with the monitoring team to ensure that planned systems can be responsive to APD's management of CASA-related provisions.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.182 Assessing Compliance with Paragraph 214: EIS Rolling Thresholds

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.**

### Methodology

During the second site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, reviewed draft policies and identified current systems development progress and expected due dates. As development proceeds, the monitoring team will follow it closely and provide feedback as needed and/or as requested by the APD. This requirement is not yet due.

**Results**

APD currently has in effect plans for rolling thresholds when assessing officer use-of-force events, thus necessitating a review of every officer use of force. The agency is currently planning transition to "Blue-Team" software that will allow uses of force to be reviewed and assessed in "real time." In-depth assessment and planning of review triggers and time limits are being planned, and should be facilitated by the new software when it comes on line. The monitoring team continually assesses changes to planned system development and system capacities and abilities. The monitoring team strongly recommends that, once development plans are available, they be reviewed with the monitoring team to ensure that planned systems can be responsive to APD's management of CASA-related provisions.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.183 Assessing Compliance with Paragraph 215: EIS Requirements

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 .**

### Methodology

During the second site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, and identified current systems development progress, reviewed draft policies/ procedures/protocols, discussed training and expected due dates. The system development process appears to be proceeding at a reasonable rate, given the complexity of the proposed system. This requirement is not yet due.

### Results

APD continues in the transition to new EIS systems—"IAPro" and "Blue Team." Testing of the new system is currently ongoing. Policies/Procedures/Protocols are being revised and approved prior to training development. Capturing demographic data relating to Search/Seizure is, as yet, unresolved. Clarification will be required for the category of "Traffic Collisions." Current APD draft policy inserts the word "preventable" into the requirement. The requirements of this paragraph carry a timeline of "within nine months of the effective date." This requirement is not yet due.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.184 Assessing Compliance with Paragraph 216: EIS Protocols

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.**

### Methodology

During the second site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation. Discussions included "Best Practices" and clarification requests regarding several CASA requirements.

### Results

The concept of an Early Intervention Systems is already a component and has been a component of Internal Affairs planning for some time. IAB personnel are aware of the benefits offered by the system, and are simply awaiting development of guidance via written policy, procedures, protocols and training so that the system can "go live." No timeline for those developments is currently available from the APD or IAB.

**Primary: Not Yet Due**
**Secondary: Not Yet Due**
**Operational: Not Yet Due**

### 4.7.185 Assessing Compliance with Paragraph 217: Retention in EIS

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.**

#### Methodology

During the second site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, and identified current systems development progress and expected due dates.

#### Results

EIS data is currently planned to be held "indefinitely" by APD IA which exceeds the CASA requirements. The updated IAPro system appears to comply with these requirements. The data entry requirements are on-going and all EIS data is maintained securely in Internal Affairs. Timeline for these requirements are "within nine months of the effective date."

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.186 Assessing Compliance with Paragraph 218: Training re EIS

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.**

### Methodology

During the second site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, identified current systems development progress, identified areas requiring clarification and expected due dates.

### Results

EIS policies to be developed are currently in draft form and require approval after a few clarifications. The training for approximately 150 supervisors is to be developed upon policy/protocol approval. The training for all employees is to be developed. The timelines for these requirements begin "within six months of the system improvements" which carry a timeline of "within nine months of the effective date."

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.187 Assessing Compliance with Paragraph 219: Updates and Revisions to EIS

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.**

### Methodology

During the second site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System

development and implementation, and identified current systems development processes, APD progress and expected due dates.

**Results**

This requirement is not yet due—it requires implementation/testing/use of and experience with the system before the monitoring team can assess efficacy of the planned system. As currently "planned," the system appears to meet the requirements of the CASA. The monitoring team strongly recommends that, once final development plans are available, they be reviewed with the monitoring team to ensure that planned systems can be responsive to APD's management of CASA-related provisions.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.188 Assessing Compliance with Paragraph 220: Use of OBRD

### 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.**

### Methodology

During the second site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development progress and expected due dates. Members of the monitoring team and representatives of the DOJ participated in an abbreviated training session for the use of APD's Taser recording equipment.

### Results

The latest version of the APD policy regarding On-Body Recording Systems appears to meet the requirements of the CASA. This final version has been submitted to DOJ and is pending approval by the monitor and the Parties. The timeline for compliance is "within six months of the Effective Date" and, if approved, will meet the timeline. Training will begin upon final approval of the policy by DOJ and the monitor.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.189 Assessing Compliance with Paragraph 221: Review of OBRD Use by Monitor and DOJ

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.**

### Methodology

During the second site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes, as well as current status/progress and expected due dates.

### Results

The On-Body Recording System final policy is not yet available, while awaiting DOJ and monitor final approval; therefore, no policy-based training curriculum has been submitted to the Monitor pending policy approval. All personnel currently issued an On-Body recording system have completed training on the use of the system. The timeline for compliance follows policy timeline—"within six months of the Effective Date."

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.190 Assessing Compliance with Paragraph 222: Training on OBRD Use

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.**

#### Methodology

During the second site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes, the current status/progress and expected due dates.

#### Results

The On-Body Recording System final policy awaits final approval by the monitor and DOJ; therefore, no training curriculum has been submitted to the monitor pending policy approval. All personnel currently issued an On-Body recording system have completed training on the use of the system. The timeline for compliance is "within six months of the Effective Date," and thus is not yet due.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.191 Assessing Compliance with Paragraph 223: OBRD Testing Schedule

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.**

### Methodology

During the second site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current plans to comply with the requirements of this paragraph.

### Results

APD Sergeants currently conduct monthly inspections of each officer under their command. Inspections include all issued equipment, including On-Body Recording Systems. As the timeline for compliance follows paragraph 220—"within six months of the Effective Date" and was not due now, no audit was conducted during this period. All future site visits will include an audit of these monthly inspections.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.192 Assessing Compliance with Paragraph 224: Supervision of OBRD Use

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.**

### Methodology

During the second site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and accountability development processes, progress in these areas and expected due dates.

### Results

Upon final approval of APD SOP 1-39 Use of On-Body Recording Devices, Supervisors will be required to test the equipment monthly, ensure personnel are using systems appropriately, review at least two recordings and incorporate any knowledge gained from this review into ongoing evaluation and supervision. Additionally, supervisors will report equipment problems and immediately repair or replace equipment as needed. Supervisors shall refer assigned personnel for investigation who intentionally or repeatedly fail to activate his or her OBRD during incidents required to be recorded. This

timeline follows paragraph 220—"within six months of the Effective Date" and all future site visits will include an audit of these requirements.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.193 Assessing Compliance with Paragraph 225: Review of OBRD Video

Paragraph 225 states:

**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.**

### Methodology

During the second site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

### Results

The final draft of the On-Body Recording System Policies/Procedures was submitted to the monitor and DOJ and is currently awaiting final approval. These requirements are covered in the policy. Supervisors are required to conduct monthly inspections and reviews. No documentation has been submitted for equipment/video reviews as the timeline follows paragraph 220—"within six months of the Effective Date." These reviews should begin no later than December 2, 2016. Future site visits will include an audit of this requirement.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.194 Assessing Compliance with Paragraph 226: Compliance with Laws re OBRD

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.**

### Methodology

During the second site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy development processes, progress in development and expected due dates.

### Results

APD Policy 1-39 Use of On-Body Recording Devices is awaiting approval by DOJ and the monitor. The proffered policy appears to comply with all existing laws and regulations, having been reviewed by the Parties and the monitor. The policy itself cites both US Supreme Court and NM Statutes relative to privacy and communications.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.195 Assessing Compliance with Paragraph 227: Storage of OBRD Video

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.**

### Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

### Results

Final policies are pending

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.197 Assessing Compliance with Paragraph 228: Failing to Record via OBRD

Paragraph 228 stipulates:

**Officers who wear on-body recording systems shall be required to articulate on camera or 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.**

### Methodology

During the second site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems to identify the storage, categorization and retrieval systems, progress of these requirements and expected due dates.

### Results

During the review process of the draft policy, the monitor made additional requests for classifications to include date, time, officer involved and location. All categories are currently included in the system except for location. APD currently uses the Taser system "Evidence.com" for the video downloads/storage. Future plans include the automatic "geo tagging" of each video upon the activation of the recording device. As the timeline for compliance follows paragraph 220—"within six months of the Effective Date" the monitoring team made observations of the video logs with the required categories, but did not conduct an audit. Future site visits will include system/recording/category audits.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.197 Assessing Compliance with Paragraph 229: Use of OBRD Video

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).**

### Methodology

During the second site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems to discuss prohibited uses of OBRD video.

### Results

While the On-Body Recording System policy is currently pending review and approval by the monitor and the Parties, no training for APD personnel or

supervisors has been conducted. As the timeline for compliance follows paragraph 220—"within six months of the Effective Date" this requirement is not due until December, 2015. Future site visits will include a random audit of recordings to determine if any prohibited uses exist.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.198 Assessing Compliance with Paragraph 230: Storage of OBRD Video

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.**

### Methodology

During the second site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems to determine if officers are properly storing recordings at the end of their shift.

### Results

The APD On-Body Recording Devices policy clearly states that all recordings captured by Department issued OBRDs are the exclusive property of APD. This policy is in the final review phase, but policy training will not be conducted until final approval. While each person issued an On-Board Recording Device has been trained in its use, and recordings are being stored at the end of each officer's shift, the monitoring team did not conduct an audit. The monitoring team reviewed logs of stored recordings, and future site visits will include audits to ensure compliance with this requirement. The timeline for compliance follows paragraph 220—"within six months of the Effective Date."

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.199 Assessing Compliance with Paragraph 231: OBRD Best Practices

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.**

### Methodology

During the second site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems to identify processes, personnel and expected due dates for the community outreach as required above.

### Results

The APD has contracted with the University of New Mexico to conduct a study with focus groups and community groups to meet the requirements of this paragraph. Timeline for compliance is "within one year of the Effective Date." Initial comments from the UNM study should be available for review during the next site visit.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.200 Compliance with Paragraph 232: Strategic Recruitment Plan

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.**

### Methodology

During the second site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment and Hiring Plan development and implementation, and identified current development processes and expected due dates.

### Results

APD has revised its hiring Policies/Procedures, and the "draft" version appears to meet the requirements of the CASA. The monitoring team has not seen a

final/approved version. While the team has not been provided a recruitment policy and program, APD continues to aggressively recruit via Facebook, Twitter, and "APD Online" as well as High School Enrichment classes. Traditional outreach via TV, Radio, Newspaper and Billboard ads all failed to return any candidates, according to APD.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.201 Assessing Compliance with Paragraph 233: Recruitment Plan Goals and Objectives

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.**

#### Methodology

During the second site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment Plan development and implementation, and identified current development processes and expected due dates.

#### Results

APD has not provided the monitoring team with a "recruitment plan" but continues to aggressively promote APD via Facebook, Twitter, APD Online and attending various High School Enrichment programs. Additionally, APD has developed a "blind" online application process wherein an applicant can remain completely anonymous until they arrive for testing. The monitor is cognizant that these outreach processes, and a laudable "blind" on-line application processes are not a "strategic plan," and urges APD to move forward with a tangible, articulated strategy and plan for recruiting.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.202 Assessing Compliance with Paragraph 234: Recruitment Plan Strategies

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.**

### Methodology

During the second site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment Plan development and implementation, and identified current development processes and expected due dates.

### Results

The University of New Mexico has been working with the APD to develop a comprehensive recruiting plan. The monitoring team has requested an update to the progress of this process, but has not received a final version of the resulting Recruitment Plan. APD plans to build upon past successes with the internet to recruit. The specific strategies called for in this paragraph have not been documented in an official plan.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.203 Assessing Compliance with Paragraph 235: Consultation re Recruiting Processes

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.**

### Methodology

During the second site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment Plan development and implementation, and identified current development processes and expected due dates.

### Results

APD partnered with the UNM to develop a comprehensive strategy to attract a diverse pool of applicants. Beyond the resulting report from UNM, the monitoring team has not been provided with a strategic policy or plan for recruitment. Members of the monitoring team attended several diverse community meetings with the APD Chief who was actively recruiting during the meetings. Additionally, the APD has an extensive online presence in relation to recruiting. While their efforts are commendable, a written plan and documentation of its execution does not yet exist. The monitor cannot hold APD in compliance with this (and related tasks) until there is a formal plan.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.204 Assessing Compliance with Paragraph 236: Recruit Selection

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.**

#### Methodology

During the second site visit, members of the monitoring team met with all Training Academy personnel responsible for the hiring and selection plan development and implementation, and identified current development processes and expected due dates.

#### Results

APD has developed a "blind" automated, on-line system that allows an applicant to remain completely anonymous until they arrive for testing. Recruiting and Hiring policies have been revised and are currently in the review/approval process. The monitoring team has requested, but has not yet received, the final policies/procedures supporting this process.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.205 Assessing Compliance with Paragraph 237: Selection Process Articulated

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.**

### Methodology

During the second site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment Plan development and implementation, and identified current development processes and expected due dates.

### Results

While APD has revised its Policies/Procedures on this topic, and they continue to make their way through the approval process. The current policy meets the requirements of this paragraph of the CASA. APD records showed evidence of one lateral hire into the rank of patrol officer during this period and all requirements were met. A second hire, according to APD, into the rank of major, was a hire into an exempt "at will" category. No background investigation is evident in that hiring.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.206 Assessing Compliance with Paragraph 238: Background Investigations for Recruits

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.**

### Methodology

During the second site visit, members of the monitoring team met with Training Academy personnel responsible for the Hiring policy development and implementation, and identified current development processes and expected due dates.

### Results

APD has revised its Policies/Procedures and upon approval, they meet the requirements of this paragraph. During the site visit, the Academy staff added specific questions regarding a candidate's ability to work with diverse communities to its "Personal Reference Questionnaire and Employers Questionnaire". A training memo was issued to all investigators regarding the change. To date, the monitoring team have seen no internal audits of this requirement. Academy staff clearly exhibited a sincere desire to meet all requirements of the agreement related to recruitment/hiring.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.207 Assessing Compliance with Paragraph 239: Background Investigations for Lateral Hires

Paragraph 239 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.**

### Methodology

During the second site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment/Hiring policy development and implementation, and identified current development processes and expected due dates.

### Results

APD had one lateral hire during this monitoring period, and went beyond the requirements of CASA by having this hire complete the entire Academy process and also the additional requirements of a lateral hire. The monitoring team reviewed the personnel file of this hire, and many more that applied. 55 lateral applications were received—49 disqualified and 6 qualified. Reasons for disqualifications included failure of the Psychological exam, Complaints, Polygraph failures, etc. During the second monitoring period, the APD had one other lateral hire into a command position that it claims was an exempt "at will" position. No background investigation was completed for this hire.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**

Operational: **Not Yet Due**

### 4.7.208 Assessing Compliance with Paragraph 240: Annual Recruiting Outcome Reports

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 applicant.**

### Methodology

During the second site visit, members of the monitoring team met with Training Academy personnel responsible for the Hiring/Recruitment Plan development and implementation, and identified current development processes and expected due dates.

### Results

The APD Annual Report contains information related to the Academy; however, APD will need to revise the content to address the requirements of this paragraph. The report for 2014 mentions cadets seated, but not applicants or interviewees. Upgraded electronic systems for applications and data sharing were mentioned in the report, but it makes no mention of challenges to recruiting or ability to recruit applicants with needed skills. The timeline of this requirement is "annually report" with the next report due for release in January, 2016.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.209 Assessing Compliance with Paragraph 241: Fair Promotion Practices

Paragraph 241 stipulates:

**APD shall develop and implement fair and consistent promotion practices that comport with best practices and federal anti-discrimination laws.**

a. **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.**
b. **These criteria should account for experience, protection of civil rights, discipline history, and previous performance evaluations.**

### Methodology

APD has been working with Albuquerque City Legal, HRO, outside vendors (CWH) and obtained promotional policies from numerous other police agencies. APD is developing its own promotional plan to enable compliance with the requirements of this paragraph. During this monitoring period, this plan has not yet been approved or implemented. The monitoring team has not received a final/approved promotional plan.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.210 Assessing Compliance with Paragraph 242: Criteria-Based Promotions

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.**

### Methodology

APD has secured promotional practices policies from Tucson, AZ PD and the Las Vegas Metro PD, and, using those and the CASA as guides, has flowcharted the proposed promotional practice. No APD assessments of knowledge, skills and abilities (KSAs) have been provided to the monitoring team as of this point. Again, the monitoring team has provided APD with templates for acceptable needs assessment and training outline processes, which we would expect to be followed as this process continues.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.211 Assessing Compliance with Paragraph 243: Provisions for Removal of Officers from Consideration for Promotion

Paragraph 243 stipulates:

**Within six months of the Effective 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.**

### Methodology

The City reportedly has developed draft policies regarding this requirement, but they had not been provided to the monitoring team as of the operational date for the monitor's second report.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.212 Assessing Compliance with Paragraph 244: Performance-Based Employee Evaluations

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.**

### Methodology

During the second site visit, members of the monitoring team met with all personnel responsible for the Promotions Plan development and implementation, and identified current development processes and expected due dates.

### Results

APD has been using the City of Albuquerque Rules and Regulations related to promotions. Section 203.2C is stricter than this requirement of the CASA. APD is currently developing their own policy, but it has not been completed, and thus has not gone through the review process. The timeline for this requirement is "within six months" which is outside of this monitoring period. The City Policy contains one exclusion regarding a "first accident suspension." This will need to be clarified and approved by DOJ and the monitor prior to implementation of the new policy.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.213 Assessing Compliance with Paragraph 245: Performance Evaluation Practices

Paragraph 245 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.**

#### Methodology

During the second site visit, members of the monitoring team met with all personnel responsible for the Performance Evaluation development and implementation, and identified current development processes and expected due dates.

#### Results

APD currently utilizes the City of Albuquerque policy for Performance Evaluations. They are currently crafting their own Performance Evaluation Procedures; however, this process has not been completed as of the drafting of this report. The monitoring team has not received a final Performance Evaluation Plan, nor have they approved specifics of the planned transition to an APD plan, separate and distinct from the City process. Given the amount of work entailed in assessing, developing, and articulating new performance evaluation systems, the monitoring team assesses this requirement's status (as reflected by current progress) as seriously delayed.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.214 Compliance with Paragraph 246: Annual Performance Evaluations

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.**

**Methodology**

During the second site visit, members of the monitoring team met with all personnel responsible for the Performance Evaluation development and implementation, and identified current development processes and expected due dates.

**Status**

APD currently conducts Performance Evaluations using the policy of the City of Albuquerque. They are currently developing their own policy and review process; however, this was not completed during the current review period. Additionally, APD is developing electronic evaluations and incorporating EIS data to ensure a thorough review process. These tasks have not been completed as of the drafting of this report. An "annual review" as called for in this requirement is not yet due.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.215 Compliance with Paragraph 247: Ready Access to Mental Health Resources

Paragraph 247 stipulates that:

**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.**

**Methodology**

During the second monitor visit, the members of the monitoring team met with the Lead for this paragraph Dr. T Rodgers. The APD's Officer Assistant and Support Program has been substantially revised, but SOP 1-14 was in need of some revisions to meet the requirements of this paragraph. The monitoring team discussed the changes required by the CASA with Dr. Rodgers during their last site visit in November, 2015. As of the date of this report have yet to receive the additions and revisions to support the requirements. Upon completion of these revisions the monitoring will begin to measure the impact of this program on the APD. The key element to compliance with this paragraph is the addition in the SOP 1-14 section 1-14.2 Rules and Regulation A, to reflect "**APD agrees to provide officers and employees ready access to mental health and support resources.**" Until that SOP is substantially

revised and updated, reviewed by the monitoring team, and approved, APD cannot be considered in compliance with this task. The monitoring team judges progress on this task to be **seriously delayed**, although it is officially "not yet due."

**Results**

| | |
|---|---|
| Primary: | **Not Yet Due** |
| Secondary: | **Not Yet Due** |
| Operational: | **Not Yet Due** |

### 4.7.216 Compliance with Paragraph 248: Best Practices Mental Health Services

Paragraph 248 stipulates that:

**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.**

**Methodology**

During the second monitor visit, the members of the monitoring team met with the Lead for this paragraph, Dr. T Rodgers to review progress on this requirement. Substantial changes had been made to the draft Officer Assistant and Support Program, but SOP 1-14 is in need of additional revisions to meet the requirements of this paragraph. Members of the monitoring team discussed the changes required by the CASA and as of the date of this report have yet to receive the requested additions to support the requirements. Upon completion of these revisions the monitoring will begin to measure the impact of this program on APD operations. The key element in this paragraph is a "Peer Support Coordinator" position. Position descriptions, training plans, recruiting and selection for this position are reportedly "under development," although the monitoring team have not been provided any product indicating the degree of progress made with this task to date. The monitoring team judges progress on this task to be **seriously delayed**, although it is officially "not yet due."

**Results**

| | |
|---|---|
| Primary: | **Not Yet Due** |
| Secondary: | **Not Yet Due** |
| Operational: | **Not Yet Due** |

### 4.7.217 Compliance with Paragraph 249: Training in Officer Support Protocols

Paragraph 249 stipulates that:

**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.**

### Methodology

During the second monitor visit, the members of the monitoring team met with Dr. T Rodgers, the APD point of contact responsible for this task. Although changes had been made to the Officer Assistant and Support Program, SOP 1-14 was in need of some revisions to meet the requirements of this paragraph. Members of the monitoring team discussed the changes required by the CASA and as of the date of this report have yet to receive the changes and or additions to policy necessary to support the requirements of this task. Upon completion of these revisions the monitoring will begin to measure the impact of this program on the APD. Dr. Rodgers advised the monitoring team that he was working with APD staff to develop the training aspect of this program, although acceptable policy guidance is required prior to the development of any training related to this topic. The monitoring team judges progress on this task to be **seriously delayed**, although it is officially "not yet due."

### Results

| | |
|---|---|
| Primary: | **Not Yet Due** |
| Secondary: | **Not Yet Due** |
| Operational: | **Not Yet Due** |

### 4.7.218 Compliance with Paragraph 250: Confidentiality of Counseling Services

Paragraph 250 stipulates that:

**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.**

### Methodology

During the second monitor visit, the members of the monitoring team met with the lead employee for this paragraph Dr. T Rodgers. According to Dr. Rogers,

substantial changes had been made to the Officer Assistant and Support Program; however, SOP 1-14 was in need of some revisions to meet the requirements of this paragraph. The members discussed the changes required by the CASA, and as of the date of this report have yet to receive the additions to support the requirements of this paragraph, which were requested from Dr. Rogers. Upon completion of these revisions, review and approval by the monitoring team, APD will need to plan assessment methodologies to begin to measure the impact of this program on the APD. The monitoring team judges progress on this task to be **seriously delayed**, although it is officially "not yet due."

**Results**

| | |
|---|---|
| Primary: | **Not Yet Due** |
| Secondary: | **Not Yet Due** |
| Operational: | **Not Yet Due** |

### 4.7.219 Compliance with Paragraph 251: Involvement of Mental Health Professionals in Training Development

Paragraph 251 stipulates that:

**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.**

**Methodology**

During the second monitor visit, the members of the monitoring team met with the lead employee for this paragraph Dr. T Rodgers. According to Dr. Rogers, substantial changes had been made to the Officer Assistant and Support Program; however, SOP 1-14 was in need of some revisions to meet the requirements of this paragraph. The members discussed the changes required by the CASA, and as of the date of this report have yet to receive the additions to support the requirements of this paragraph, which were requested from Dr. Rogers. Upon completion of these revisions, review and approval by the monitoring team, APD will need to plan assessment methodologies to begin to measure the impact of this program on the APD. The monitoring team judges progress on this task to be **seriously delayed**, although it is officially "not yet due."

**Results**

| | |
|---|---|
| Primary: | **Not Yet Due** |
| Secondary: | **Not Yet Due** |
| Operational: | **Not Yet Due** |

### 4.7.220 Compliance with Paragraph 252: Requirements for Mental Health Evaluation

Paragraph 252 stipulates that:

**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.**

### Methodology

During the second monitor visit, members of the monitoring team met with the lead individual for this paragraph, Dr. T Rodgers. According to Dr. Rogers substantial changes had been made to the Officer Assistant and Support Program; however, SOP 1-14 was in need of some revisions to meet the requirements of this paragraph. The members discussed the changes required by the CASA and as of the date of this report have yet to receive the additions to support the requirements of this paragraph. Upon completion of these revisions the monitoring will begin to measure the impact of this program on the APD. The key element in this paragraph was in SOP 1-14 section 1-14-2 C. Officer-Involved Shooting should be changed to 1-14-2 Traumatic Event.

### Results

The monitoring team judges progress on this task to be **seriously delayed**, although it is officially "not yet due."

### 4.7.221 Compliance with Paragraph 253: Cataloging Mental Health Services

Paragraph 253 stipulates that:

**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.**

### Methodology

During the second monitor visit, the members of the monitoring team met with the lead for this paragraph Dr. T Rodgers. According to Dr. Rogers, substantial changes had been made to the Officer Assistant and Support Program, but SOP 1-14 was in need of some revisions to meet the requirements of this paragraph. The members discussed the changes required by the CASA, and, as of the date of this report have yet to receive evidence from the APD to indicate that the required revisions additions to support the requirements of this paragraph have been made. Upon completion of these revisions the

monitoring will begin to measure the impact of this program on the APD. The key element in this paragraph is maintaining a current and accurate list of available providers.

### Results

The monitoring team judges progress on this task to be **seriously delayed**, although it is officially "not yet due."

| | |
|---|---|
| Primary: | **Not Yet Due** |
| Secondary: | **Not Yet Due** |
| Operational: | **Not Yet Due** |

### 4.7.222 Compliance with Paragraph 255:[10] Congruence of Mission Statement

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

Members of the monitoring team reviewed APD's revised and posted mission statement and accompanying narrative that elaborates on principles articulated in the mission statement. Supporting policy work, is needed.

### Results

The revised APD mission statement was posted prior to the end of the second reporting period. The revised mission of the APD references " working in partnership with the community ... to maintain order, reduce crime, and the fear of crime through education, prevention, and enforcement." In an accompanying narrative, APD elaborates on this partnership and states that it "seeks to expose the root causes of crime and disorder and to eradicate such conditions through aggressive enforcement of laws, ordinances and City policies through positive community elaboration." The accompanying "Vision Statement" adds the following: "The Albuquerque Police Department envisions a safe and secure community where the rights, history, and culture of each citizen are valued and respected. We will achieve this vision by proactively collaborating with the community to identify and solve public safety problems and improve the quality of life in Albuquerque." These revisions address the

[10] Paragraph 254 was not evaluated as it is considered a policy statement, not a definable objective. Key elements of 254 are operationalized in paragraphs 255-270, outlined below.

requirement of having a mission statement reflecting a commitment to community oriented policing. Integration of community and problem solving principles into APD's management systems, policies, procedures, recruitment, training, personnel evaluations, resource deployment systems, tactics, and accountability systems is currently ongoing and more directly addressed in other paragraphs of the CASA.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.223 Compliance with Paragraph 256: APD Response to Staffing Plan

**Paragraph 256 states:**

**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**

On-site interviews were conducted with APD communications and community outreach staff on August 20, 2015, and November 4, 5, 2015. Members of the monitoring team were present to observe the staffing analysis briefing of APD executive staff by the staffing study's author, Dr. Alexander Weiss. Further, monitoring team members made follow up telephone conference calls regarding staffing on December 17, 2015 and January 8, 2016.

**Results**

A staffing analysis was completed by an outside consultant during this reporting period and released on December 14, 2015. The staffing analysis calls for community policing teams in each area command to focus on supporting community- and problem-oriented policing. APD has generally agreed to develop a plan entitled "Police and Community Together (PACT) which decentralizes some police functions and would add officers to area commands based on actual workloads. APD is currently developing internal mechanisms to guide further development and implementation of the plan. No timeline has been finalized for plan implementation.

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

### 4.7.224 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

Members of the monitoring team conducted interviews with APD communications and outreach staff on, August 17,2015 and November 5, 2015. They also reviewed APD issued Special Order 15-13, and attended at problem oriented policing session on June 22, 2015. Monitoring staff reviewed agendas for Problem-Oriented-Policing (POP) sessions during this reporting period. Monitoring staff also reviewed APD documentation on distribution of "new bid packets" to APD officers, and conducted telephone interviews with Communications and outreach staff on January 8, 2015.

## Results

APD issued Field Services Bureau Order 15-13 on May 6, 2015 to comply with paragraph 257 of the settlement agreement. The order requires the distribution and completion of a "New Bid" packet to assist sworn personnel in "identifying the geographical areas they serve, identifying community leaders, engage in problem solving practices, and work proactively with other city departments to address these quality of life issues." Sworn personnel are provided a signature page that they then sign, acknowledging receipt of the packet. The signature page will be retained for auditing purposes for a minimum of three years. APD has provided documentation including signed signature pages of officers who have been provided with the packets. Distribution of packets to APD personnel is an ongoing activity.

There were POP initiatives underway during the reporting period where sworn personnel working with other city agencies and community members collaboratively addressed quality of life issues in Albuquerque's neighborhoods. APD is expanding officer participation in such projects; however, during the reporting period, POP initiatives did not involve the preponderance of APD officers. Documentation was provided to the monitoring team for participating officers on their community contacts during reporting period.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.225 Compliance with Paragraph 258: Officer Outreach Training

Paragraph 258 stipulates:

**Within 12 months of the Effective 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 partner ships, 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 is currently developing a curriculum that addresses the community policing training requirement in the CASA. A proposed training curriculum was delivered to the monitoring team for an initial review during the current reporting period. An initial review of proposed curriculum materials revealed that elements of the content requirements asked for in the CASA were not adequately addressed. Items apparently omitted included: cultural awareness and sensitivity, and establishing maintaining effective community partnerships. Additionally, the monitoring team suggests that APD should use a broader selection of source documentation to develop training curriculum content (a detailed analysis of proposed curriculum content has been provided to APD, as part of the monitoring team's routine technical assistance (TA) processes).

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.226 Compliance with Paragraph 259: Measuring Officer Outreach

Paragraph 259 stipulates:

**Within six months of the Effective 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

On-site interviews were conducted with communications and outreach staff on August 20, 2015, and November 4 and 5 2015. Reviews of meeting agendas and attendees list for meetings with mental health and other advocacy groups were also assessed. The monitoring team also reviewed other collaborative meeting agendas and minutes, and reviewed APD memoranda relating to their progress in implementing paragraph 259.

### Results

The ABQ Collaborative on Police-Community Relations, launched by the City's Office of Diversity and Human Rights (ODHR), identified 25 stakeholder groups and conducted facilitated discussions in order to provide opportunities for input on improving police community partnerships. As a result of these meetings, APD will develop a proposed plan for ongoing outreach and partnerships with community stakeholders. Once the proposed plan is finalized, a monitoring team of community stakeholders will be set up to track progress on implementation. APD is also working to establish a community calendar that will capture community outreach events and data pertaining to attendance, topics discussed, recommendations made and stakeholders identified. As of the end of this reporting period, that calendar has not been published. Additionally, plans call for all actionable recommendations from the ODHR process to be forwarded to Community Policing Councils for further consideration. Tracking data from the community calendars will also be cross-referenced with the area command tracking sheets and the Monthly Report Tracking Sheets used to track individual officer requirements for attendance and participation in community meetings. These mechanisms to measure officer outreach to a broad section of community members were under development during the second reporting period, and no formal work product that resulted from these proposed processes were produced by APD.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.227 Compliance with Paragraph 260: PIO Programs in Area Commands

Paragraph 26 stipulates:

**APD shall develop a Community Outreach and Public Information program in each area command.**

## Methodology

Members of the monitoring team conducted on-site interviews with community outreach and public information staff on August 20, 2015, and November 4-5 2015. Team members also conducted on-going reviews of APD's website; and conducted telephone interviews with public information staff on December 10, 2015 and January 8, 2016, to assess status of activities related to this paragraph.

## Results

During the reporting period, APD has continued its work on enhancing websites for each of the six command areas. These sites include crime information, crime prevention materials, photographs of commanders and officers that work in that area command, schedule of upcoming events, other news items, how to report crimes, and how to file complaints or recommendations for officer commendations. APD has also established social media outreach that includes Facebook, Twitter, and netdoor.com. APD reports that the Twitter account now reports up to 26,000 followers during the second reporting period with about 20,000 impressions each day. APD has established the "coffee with a cop" program in each command area as well. As this project progresses, the monitoring team would expect APD to move from "bulk" number assessments to more tangible processes, such as the number of police issues identified by the community, the number of those addressed and resolved by the department, and the types of issues resolved and/or not resolved by APD. The monitoring team considers inclusion of tangible community feedback an important aspect of community outreach.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.228 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

Members of the monitoring team conducted on-site interviews with APD communications and community outreach staff on August 20, 2015 and November 4-5 2015. Follow-up telephone interviews with communications and outreach staff were conducted on December 17, 2015 and January 8, 2016.

## Results

APD has scheduled working meetings during the month of February, 2016 in each of the six area commands to coincide with the regularly scheduled CPC meetings. APD reports that beginning in January 2016, a broad outreach effort to community members will be initiated. Further work in this area is planned, using a range of media tools and outlets to publicize these meetings. APD indicates that meetings will include APD senior officials and the compliance monitors. These meetings will review CASA requirements, note progress made in attaining compliance, and addresses any related community concerns. No output reflecting other than planning activities in response to this requirement were available from APD this reporting period. These will be re-visited during the third reporting period.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.229 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 meeting s shall include public information on an individual's right and responsibilities during a police encounter.**

## Methodology

Onsite interviews with APD communications and community outreach staff were conducted on August 20, 2015 and November 4-5 2015. Follow up telephone interviews were conducted by members of the monitoring team on December 17, 2015 and January 8, 2016. The monitoring team also continued on-going reviews of APD website for meeting information and other activities representing outreach.

## Results

APD has indicated that they are in the process of developing written guidance on safeguards to protect sensitive information and finalizing information on an individual's right and responsibilities during a police encounter.in preparation for these meetings. APD also indicates that agenda for these meetings will also include directions on how the public can access public records, and information on an individual's right and responsibilities during a police encounter. To date, APD has not conducted any actual meetings in response to this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.230 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

Members of the monitoring team conducted on-site interviews with APD communications and community outreach staff on August 20, 2015, and November 4,5 2015. The team also reviewed SOP 3-02-01, related to this requirement, and reviewed APD postings on implementation of paragraph 263 of the CASA.

### Results

APD drafted SOP 3-02-1 that establishes both the requirement and the tracking mechanisms needed to implement this requirement. The SOP requires all area commanders to ensure their sworn, uniformed personnel attend community meetings in uniform and document time and attendance of meeting, duration of meeting, and issues concerns and or any positive input provided by community members. This information is to be documented on the Officers' Monthly Report and tracked through excel spreadsheets kept by each area commander. In addition, this information will be crosschecked with data collected from reports resulting from use of community calendars. The compilation of this data will also appear in kept in other appropriate data bases and compiled as part of APDs annual report that will provide data on the number of contacts, content and quality of those contacts, stakeholders identified and collaborative opportunities achieved. With the exception of

publication of the SOP, all of these activities are "planned." No data from the field were available to the monitoring team as of the date of this report.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.231 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

Members of the monitoring team conducted on-site interviews with APD communications and community outreach staff August 20, 2015 and November 4,5 2015. The monitoring team also engaged in on-going review of the APD website.

### Results

Monitoring team reviews indicate that APD currently provides crime information on the City/APD website, and reportedly at monthly community meetings, through press releases, and in each area command. The information also maps locations of crimes in near time, and is, in the monitoring team's opinion, an excellent display of up-to-date information on the web. No results of supervisory review and assessment of these processes are currently available. The monitoring team will continue to assess secondary and operational issues.

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

### 4.7.232 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

Members of the monitoring team conducted on-site interviews with APD communications and community outreach staff on August 20, 2015, and November 4-5 2015. Follow up telephone interviews with APD staff were conducted on December 17,2015 and January 8, 2016. The monitoring team also engaged in ongoing review of APD website.

### Status

APD posted the CASA on their website and the monitoring report from the first reporting period. APD is developing guidelines for determining any reasonable exceptions to posting audits and reports relating to the CASA. The monitoring team will continue to assess secondary and operational issues.

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

### 4.7.233 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

Members of the monitoring team conducted on-site interviews with APD communications and community outreach staff on August 20, 2015, and November 4-5 2015. Follow up telephone interviews with APD staff were conducted on December 17,2015 and January 8, 2016. The monitoring team also reviewed communications and other artifacts related to this paragraph, and attended CPC meetings and interviewed participants in CPC meetings held by APD.

### Results

Community policing Councils have been established in each of the six Area commands since November, 2014. During the reporting period the each of the six Councils met once a month. It was reported by APD that the establishment of the Councils was widely communicated and that volunteer members were solicited from throughout the community. Some community members have disputed this. Attendance and participation in CPCs have not met the goals of APD by their own admission. Attendance is uneven across the six command areas. Actual documentation of attendance and background

information on participants is not available although efforts are now underway to try to collect that information. It could not be determined if CPCs during the reporting period were consistently facilitating regular communication and cooperation between APD and community leaders at the local level. APD staff has asked for technical assistance in enhancing community outreach, and improving CPC operations.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.234 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

Members of the monitoring team conducted on-site interviews with APD communications and community outreach staff on August 20, 2015 and November 4-5, 2015. The monitoring team staff also participated in a CPC meeting on November 4, 2015. Follow up telephone interviews were conducted, and the monitoring team conducted a review of meeting agendas, and minutes from Council meetings where available during reporting period.

### Results

Applications for Council membership were posted on line. Only those persons with criminal histories were eliminated from consideration for membership. Initially ABQ city employees and representatives from select stakeholder groups interviewed prospective members. Currently, the APD Communications and Community Outreach Coordinator conducts all interviews. APD emphasized identifying and selecting members with people skills. Each member is required to do a ride along, and as stipulated in the CASA, and must complete the Police Citizen Academy (PCA). The 12-week requirement for PCA is posing a hardship for many members to complete and APD is considering a modified schedule to accommodate members.

APD acknowledges a need to gather more background information on members and prospective members to help ensure and promote a cross-sectional representation of voting members and participants. The CASA also requires that the selection mechanism be developed in conjunction with community members, and APD acknowledges a need to address this requirement. APD has articulated a plan to have membership decisions including criteria pushed down to the CPCs. APD is open to expanding membership, to conducting additional outreach to ensure a greater cross section of community representation. At the end of this reporting period, each command area is still limited to only six voting members and there is no documentation that current members represent a cross section of community members from each CPC as required in the CASA. APD has acknowledged the need for CPCs to consider expanding the number of voting members to help ensure the cross section of representation.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.235 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

Members of the monitoring team conducted on-site interviews with APD communications and community outreach staff August 20, 2015, and November 4-5, 2015. Team members also Participated in the CPC meeting on November 4, 2015. Follow up telephone interviews were conducted on December 17, 2015 and January 8,11 2016. Team members also reviewed CPC minutes where available, for reporting period. They also reviewed APD posted information entitled "Community Policing Council Recommendation Process."

#### Results

The City has allocated meeting space, and provides a contracted facilitator to support each CPC. The contracted facilitator ensures that each meeting is conducted in an orderly fashion and that meeting objectives are attained. The City also provides some administrative support including copies of agendas, attendance sheets etc. The City has also created websites for each CPC. The CPCs have not developed to a point where they demonstrate evidence of formulating a comprehensive community policing approach that collaboratively identifies and implements strategies to address crime and safety issues. CPCs in general could benefit from additional assistance in their management and operations, community outreach, and communication strategies to both capture and disseminate information from community members and the public at large. APD has developed a more formalized process that primarily focuses on the internal review of the recommendations. The process requires a written response to the chairperson of the CPC submitting the recommendation from APD. Both the recommendation and the APD response are then posted on the APD CPC website. At this point, however, this guidance tends to fail to assist the CPCs in developing their own internal processes in considering and arriving at recommendations and or resolutions to articulated issues within a given CPC's area. Work remains to be done on this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.236 Compliance with Paragraph 269: APD-CPC Relationships

Paragraph 267 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:** Members of the monitoring team conducted on-site interviews with APD communications and community outreach staff on August 20, 2015 and November 4-5 2015. Team members also reviewed CPC minutes during the second reporting period, where they were available. The monitoring team reviewed proposed recommendations from each CPC during the second

reporting period. Telephone interviews with APD Communications staff and outreach staff were conducted on January 8-11, 2015.

**Status:** During the reporting period CPCs began to generate some recommendations for consideration by APD. These recommendations included the following:

1) Development of a system to coordinate mental health resources to include hospitals, charities, and other mental health resources, and to include knowledgeable and experienced APD representatives from the very beginning and through-out the process the planning process.
2) Appropriate continuing advertising of alarm system registration requirements should be directed to allow more new owners installing their own systems to understand and comply with the ordinance.
3) That APD appoint an agency or individual to monitor active news stories that involve officers in a positive manner. Once identified the officer would be contacted for their approval and input to prepare the timely news release.
4) That the Albuquerque City Council, the Mayor's office and APD petition the state legislature to exempt the City from the upcoming changes to PERA regulations regarding undermanned public safety departments.

There were no specific recommendations regarding law enforcement priorities and related community policing strategies, specific APD policing tactics, or how to recruit a more diversified work force as called for in the CASA. The nature of recommendations thus far may reflect a need for CPCs to have greater exposure to APD practices and best practices from other jurisdictions. Training of CPC leadership on their mission and role, and more diverse membership and participation is indicated.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.237 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

The monitoring team conducted interviews with APD communications and outreach staff on August 20, 2015.

### Results

Personnel interviewed were cognizant of the established timeline, and appear committed to meeting the deadlines as established. Auditable work has yet to be produced.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.238 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.**

### Methodology

Members of the monitoring team reviewed APD's revised and posted mission statement and accompanying narrative that elaborates on principles articulated in the mission statement.

### Results

The revised APD mission statement was posted prior to the end of the second reporting period. The revised mission of the APD references " working in partnership with the community ... to maintain order, reduce crime, and the fear of crime through education, prevention, and enforcement." In an accompanying narrative, APD elaborates on this partnership and states that it "seeks to expose the root causes of crime and disorder and to eradicate such conditions through aggressive enforcement of laws, ordinances and City policies through positive community elaboration." The accompanying "Vision Statement" adds the following: "The Albuquerque Police Department envisions a safe and secure community where the rights, history, and culture of each citizen are valued and respected. We will achieve this vision by proactively collaborating with the community to identify and solve public safety problems and improve the quality of life in Albuquerque." These revisions address the requirement of having a mission statement reflecting a commitment to community oriented policing. Integration of community and problem solving

principles into APD's management systems, policies, procedures , recruitment, training , personnel evaluations, resource deployment systems, tactics, and accountability systems is currently ongoing and more directly addressed in other paragraphs of the CASA

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.239 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Civilian Police Oversight Agency investigations that were completed during this monitoring period.

A review of the applicable Ordinance and observations by the monitoring team demonstrates that the CPOA remains accountable to, but independent from, the Mayor, the City Attorney's Office, the City Council, and APD.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.240 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Civilian Police Oversight Agency investigations that were completed during this monitoring period.

**Results**

The Ordinance sets forth the requirements of this paragraph for members of the Police Oversight Board. The same requirements are not set forth for members of the CPOA. Members of the monitoring team during this site visit have seen no other policies, rules and/or procedures of the CPOA setting forth the requirements of this paragraph other than the Ordinance.

The monitoring team was unable to review during this site visit the background of individuals appointed to serve on the agency.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.241 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.**

**Methodology**

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Civilian Police Oversight Agency investigations that were

completed during this monitoring period. The monitoring team has also reviewed PowerPoint presentations, proposed by legal counsel to the CPOA, of civil rights and Fourth Amendment training and the CASA.

**Results**

The Ordinance sets forth some of the training (use of force, civil rights training including Fourth Amendment training) requirements of this paragraph for members of the Oversight Board. The same requirements are not set forth for members of the CPOA.

The monitoring team has seen no other policies, rules and/or procedures of the CPOA this site visit that set forth the requirements of this paragraph. The monitoring team was unable to review during this site visit training records demonstrating compliance with this paragraph.

The City is still within the extension of time to perform such training.
The monitoring team finds the proposed Civil Rights, Fourth Amendment and CASA training is professional and appropriately addresses the subject matter required by the CASA.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.242 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.**

**Methodology**

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 CPOA investigations that were completed during this monitoring period. The monitoring team has also reviewed PowerPoint presentations, proposed by legal counsel to the CPOA, describing civil rights and Fourth Amendment training and the CASA.

**Results**

The CPOA Ordinance fails to address training of Agency members. The monitoring team has seen no other policies, rules and/or procedures of the CPOA this site visit that set forth the requirements of this paragraph.
The monitoring team was unable to review, during the first site visit, training records demonstrating compliance with this paragraph, although plans were obviously being developed to provide training at a future date.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.243 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with members of the 17 CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a 17 of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

### Results

The Ordinance forming and empowering the CPOA sets forth the requirements of this paragraph for members of the Oversight Board. The same requirements are not set forth for members of the Agency. The monitoring team has seen no other policies, rules and/or procedures of the CPOA this site visit that set forth the requirements of this paragraph.

The monitoring team was unable to review training records demonstrating compliance with this paragraph during the June site visit. This will be completed if the data are available during the next team site visit in March, 2016.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.244 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.**

## Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Civilian Police Oversight Agency investigations that were completed during this monitoring period.

## Results

The Ordinance empowering the CPOA requires that the agency employ "such staff as necessary to carry out its functions . . . subject to budget sufficiency ..." The monitoring team was not able to review any other policies, rules and/or procedures of the CPOA that set forth the requirements of this paragraph at that time. Members of the monitoring team visited the CPOA offices and assessed the sufficiency of office space, equipment, and other facilities. The office was appropriately housed in a facility separate from the City of Albuquerque/Bernalillo Government Center, the APD and APD substations.

The office appeared to contain adequate, albeit less than ideal, space for conducting business. The monitoring team reviewed a Table of Organization for the Agency. All positions except one (Community Outreach) was filled during the time of the site visit.

Despite what appear to be sufficient resources, the monitoring team is concerned about the time some CPOA investigations take to be completed. A review of staffing and/or individual performance per investigator may be needed in order to improve the timeliness of completing investigations. ***The monitoring team is also concerned about the inability of having POB recommendations to the Chief completed in accordance with the time requirements of imposing discipline.***

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

### 4.7.245 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA, visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Agency investigations that were completed during this monitoring period.

### Results

The Ordinance empowering the CPOA sets forth the requirements of this paragraph. Independent legal counsel has been hired for the CPOA, and observations of the CPOA and interviews of the CPOA Director and staff demonstrates full compliance with this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.246 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Civilian Police Oversight Agency investigations that were completed during this monitoring period.

### Results

The Ordinance establishing the CPOA sets forth the requirements of this paragraph. Funding is required to be, at a minimum, ½% of APD's annual operation budget and based on observation of the CPOA and interviews of the CPOA Director and staff, this budget appears to be adequate as of the first site visit. Observation of the CPOA, interviews of the CPOA Director and staff, and review of completed CPOA investigations indicate primary compliance with this paragraph.

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

### 4.7.247 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.**

### Methodology

The existing CPOA Ordinance sets forth the requirements as stipulated in this paragraph. A review of randomly selected CPOA investigations by the monitoring team during this site visit indicated Executive Director compliance with the tasks of this paragraph. A review of Annual CPOA Reports on the CPOA website reveals that CPOA findings are made available to the public.

### Results

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

### 4.7.248 Assessing Compliance with Paragraph 281: Prompt and Expeditious 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Civilian Police Oversight Agency investigations that were completed during this monitoring period.

**Results**

The Ordinance sets forth the requirements of this paragraph in an acceptable manner. A review of randomly selected CPOA investigations by the monitoring team during this site visit indicated Executive Director compliance with the tasks of this paragraph.

A review of randomly selected CPOA investigations by the monitoring team during this site visit revealed two cases that took an inordinate amount of time to be completed without any discernible reason for the delay. A review of randomly selected CPOA investigations by the monitoring team during this site visit revealed two instances where discipline was not imposed due to delay in findings.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.249 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.**

**Methodology**

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Civilian Police Oversight Agency investigations that were completed during this monitoring period.

**Results**

The Ordinance provides that the CPOA Director "shall have access to any Police Department information or documents that are relevant to a civilian's complaint, or to an issue which is ongoing at the CPOA." This language is broad enough to encompass subparagraphs a through f of this paragraph. Based on observation and interviews it appears that the IAB and CPOA work cooperatively. During extensive interviews, there were no complaints lodged with the monitoring team of the CPOA not having access to needed information, and completed investigations certainly indicate the CPOA has had needed and stipulated access.

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

### 4.7.250 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.**

**Methodology**

Members of the monitoring team have seen no regulations, procedures or orders pertaining to the CPOA's authority to subpoena documents and witnesses. Although the Ordinance provides that the CPOA Director shall have access to any Police Department information or documents that are relevant to a civilian's complaint or to an issue that is ongoing at the CPOA, it is silent on subpoena power or the authority to compel the presence of witnesses.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.251 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.**

#### Methodology

Policy mandating compliance with this paragraph is contained in AO 2-05, currently under review. It is expected that upon revision and formal adoption of AO 2-05, the APD will be in primary compliance of this task.
The Ordinance requires the Police Oversight Board to review confidential and *Garrity* material only in closed sessions and to maintain confidentiality of such materials. Members of the monitoring team have seen no other protocols developed to comply with this paragraph. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit did not reveal any instances of non-compliance with the confidentiality requirements. The monitoring team noted no instance of a breach of the confidentiality requirements.

#### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.252 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.**

#### Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random

selection of 17 Civilian Police Oversight Agency investigations that were completed during this monitoring period.

**Results**

The empowering ordinance sets forth the policy required by this paragraph, empowering the Director to make recommendations regarding disciplinary action directly to the Chief before submitting it to the POB in order to ensure the timeliness required by the Collective Bargaining Agreement (CBA). These recommendations are required to be approved by the POB. Ideally the Chief should also have the benefit of approved recommendations of the POB. The monitoring team is concerned that there is not yet in place a system that allows for POB recommendations within the time guidelines required by the CBA.

A review of randomly selected CPOA investigations by the monitoring team during this site did not reveal any instances of the Chief not following the disciplinary recommendation of the POB or failing to respond in writing within thirty (30) days articulating why the recommended discipline was not imposed.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.253 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 Bureau for tracking and analysis.**

**Methodology**

Policy mandating compliance with this paragraph is contained in AO 2-05, which states that the IAB shall monitor, audit, document and provide statistical analysis of all allegations of misconduct against an employee of the APD. Although this language is broad enough to capture the requirements of this paragraph, the requirements of this paragraph should be set forth more succinctly and clearly.

Members of the monitoring team have seen no regulations or orders setting forth the requirements of this paragraph. AO 2-05 is currently under review. Revisions of AO 2-05 and formal adoption of it will be necessary for primary compliance where policy required by the CASA is contained in AO 2-05. Based upon observation and interview of IAB and CPOA personnel it is clear that IAB captures the findings of the CPOA for tracking and analysis purposes.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.254 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Civilian Police Oversight Agency investigations that were completed during this monitoring period.

### Results

The Ordinance contains the policy required by this paragraph, and permits a complainant to request reconsideration in the form of a hearing when dissatisfied with the findings and/or recommendations of the POB (findings of Executive Director to and approved by the POB). The Ordinance also permits an appeal by the complainant to the Chief Administrative Officer of the final disciplinary decision of the Chief of Police. A review by the monitoring team of randomly selected CPOA investigations by the monitoring team did not show any instances of requests for reconsideration or appeals.

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

### 4.7.255 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a 17 of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

### Results

A review of recent completed CPOA cases found none that resulted in recommendations to the Chief of Police regarding changes to APD policy and training. None of the completed cases CPOA reviewed by the monitoring team this reporting period appeared to indicate a need for a policy-change recommendation by the CPOA.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.256 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Civilian Police Oversight Agency investigations that were completed during this monitoring period. None involved recommendations to the APD that raised concerns applicable to this paragraph.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.257 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.**

#### Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Civilian Police Oversight Agency investigations that were completed during this monitoring period.

#### Results

The Ordinance requires the POB to conduct regularly scheduled public meetings in compliance with the New Mexico Open Meetings Act, and further requires each meeting to have a prepared agenda distributed in advance to the Mayor, City Council, Police Chief, and City Attorney. However the Ordinance does not require the agendas to be made available to the public via the websites of the City, City Council, CPOA or APD.

A review of the CPOA website indicates that time, date and place of meetings are publicized as well as the meeting agenda. The CPOA Annual Report lists when POB meetings and sub-committee meetings were held.

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

### 4.7.258 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.**

#### Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Civilian Police Oversight Agency investigations that were completed during this monitoring period.

**Results**

The Ordinance empowering the CPOA requires the agency to develop and implement a Community Outreach program, and requires the Executive Director of the CPOA to play an active role in the community and in community outreach efforts of the Agency. The CPOA Table of Organization provided during the site monitoring team's site visit showed a vacancy in what appears to be a newly created Community outreach position.

The monitoring team was unable to observe any CPOA Community outreach events during the site visit. Although the monitoring team is unaware of CPOA community outreach efforts during the monitoring period, the CPOA Annual Report lists numerous CPOA Executive Director community outreach efforts in 2014 aimed at explaining the police oversight process to the public. The monitoring team would expect that upon hiring of the Community Outreach specialist in the CPOA and demonstration of continued community outreach efforts during the next monitoring period there would be full compliance with this paragraph.

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

### 4.7.259 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.**

### Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of 17 Civilian Police Oversight Agency investigations that were completed during this monitoring period.

The Ordinance requires the semi-annual reports to City Council with the information set forth in this paragraph, except that the Ordinance does not explicitly require a separate analysis of serious force incidents as set forth in this paragraph.

The monitoring team review of the CPOA website revealed a semi-annual and an annual report for 2014 as well as an Officer Involved Shooting Report for 2010-2014. Both the semi-annual and annual reports contain a separate section entitled Officer Involved Shootings. The reports list the findings of the Executive Director and POB of the CPOA, but do not list the dispositions of the Chief.

### Results

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 4.7.260 Assessing Compliance with Paragraph 320: Notification of Critical Firearms Discharges, in-Custody Death or Arrest of an Officer

Paragraph 320 stipulates:

**To facilitate its work, the Monitor may conduct on-site visits and assessments without prior notice to the City. The Monitor shall have access to all necessary individuals, facilities, and documents, which shall include access to Agreement-related trainings, meetings, and reviews such as critical incident review and disciplinary hearings. APD shall notify the Monitor as soon as practicable, and in any case within 12 hours, of any critical firearms discharge, in-custody death, or arrest of any officer.**

### Methodology

During the first reporting period, the monitor has noted several critical incidents involving officer-involved shootings that had been reported in the media since implementation of the CASA that had not been followed up by reports—either in writing or by telephone—from the City or APD. Those issues have been resolved as of this report. In the future, the monitor may choose to self-initiate personal responses to shooting scenes so as to observe any officer-involved shooting responses directly and independently. We have yet to note any written policy guidance regarding this issue. While performance currently is acceptable, without written policy guidance, any change in "command and control" at APD or the City (currently notice of such incidents is provided by the Office of the City Attorney) could foreseeably result in a change in performance.

**Results**

Primary: **Not Yet Due**
Secondary: **Not Yet Due**
Operational: **Not Yet Due**

## 5.0 SUMMARY

The City's performance on tasks due as of the date of this report is meaningful. The APD and the City are in compliance for all of the five tasks due as of the operational dates for the second monitor's report, IMR-2, dated (June-November, 2015). Compliance areas are all in tasks that reasonably are prefatory, as follows:

Paragraph 141: Providing the opportunity for rank and file officers to review and comment on new or existing policies (this was a **three-month** compliance deadline);

Paragraph 142: Implementation of the Policy and Procedures Review Board (this was a **three-month** compliance deadline);

Paragraph 149: Ensuring that all officers are briefed and presented the terms of the Agreement (this was a policy with a **two-month** compliance deadline); and

Paragraph 151: Developing an itemized training schedule (this was a policy with a **six-month** compliance deadline).

Thus, the City's and APD's compliance ratio for the second reporting period is 100 percent of tasks currently due (the two- and three-month requirements). Six-month and greater requirements are "not yet due."

Overall, current status indicates compliance was achieved in **22**[1] **of 277 primary tasks**. This constitutes a Primary compliance rate of **8.0 percent**. Current status indicates Secondary compliance was achieved with **9 of 277 secondary tasks**, constituting a secondary compliance rate of **3.0 percent**. Operational compliance was achieved in **8 of 277 operational tasks** constituting an operational compliance rate of **3.0 percent**. While these numbers may appear disconcerting, it is the monitor's experience that ***all*** early reports are difficult, as they tend to reflect the organization at its initial, or initial near-state status on a multi-year journey. The numbers reflect progress from the status reported in the monitor's first report

---

[6] The City fell from 29 paragraphs in primary compliance, to 22 paragraphs based on the following facts: Paragraph 20—was shown in draft IMR 2 as "in compliance" with the comment: "APD needs to reconcile various iterations of Procedural Order 2-22 that exist in different locations and are accessible to APD officers." This obviously was an error in the DRAFT, corrected in the FINAL. Paragraph 21—was revised to "not in compliance" based on Justice's comment regarding SOP 2-52 D1, which had not been approved at the time of completion of the report. Paragraph 81 was revised to "not in compliance" based on Justice's comment about the MOU having the force of policy and not yet being reviewed and approved about DOJ. Paragraph 99 was revised pending finalization of the Force Review Board Policy. Paragraph 107 was revised pending finalization of the Policy 3-01. Paragraph 109 was revised pending finalization of the Policy 3-01.

As the CASA process builds momentum in the coming months the APD needs to carefully consider its priorities, and develop mechanisms to change existing behavior on the street and in the supervisory process.

**The monitoring team sees the critical pressure points at this time continuing to be:**

1. **Development of effective POLICY reflective of the United States Constitution and best practices in the field;**

2. **Creation of strong TRAINING development and delivery of processes based on approved policy;**

3. **Building effective SUPERVISIORY SKILLS and abilities among sergeants and lieutenants;**

4. **Development of effective and reliable systems of progressive DISCIPLINE, designed to identify critical points of deviation from articulated policy and to remedy behavior that is not consistent with policy;**

5. **In addition, the APD will eventually need to build a strong SELF-ASSESSMENT and self-reporting ethos among command and management staff;**

6. **Finally, the Agency has committed itself to a strong COMMUNITY OUTREACH strategy, designed to shed light on internal operational processes, consult with the consumers of APD's tactics, processes, and strategies, and eventually share some degree of decision-making with the communities APD serves.**

Further adding to the already significant pressures on APD is the fact that the City has agreed to take the steps necessary to incubate and nurture effective organizational development and planned change strategies at the APD in an accelerated time frame. In effect, the APD has allowed itself only three more years to complete a process that takes most agencies 7-10 years.

The APD continues to have significant hills to climb regarding assessing needs for training, developing clear, concise, understandable policy guidance and overseeing one of the most complex organizational development and planned change process ever undertaken by American managers.