

Monitor's First 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

Monday, November 23, 2015

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	3
2.1.2 Specialized Units	6
2.1.3 Crisis Intervention	6
2.1.4 Policy and Training	7
2.1.5 Internal Investigations and Adjudication	8
2.1.6 Staffing, Management and Supervision	9
2.1.7 Recruitment, Selection and Promotions	9
2.1.8 Officer Assistance Programs	9
2.1.8 Community Engagement and Oversight	9
2.2 Overview	10
3.0 Findings Concerning APD Compliance on Two- Three- and Six-Month CASA Requirements	12
3.1 Compliance with Two-Month Tasks	13
3.2 Compliance with Three-Month Tasks	14
3.3 Compliance with Three-Month Tasks	16
3.4 Summary	23
4.0 Baseline Status	25
4.1 Overall Status Assessment	25
4.2 Dates of Project Deliverables	25
4.3 Format for Compliance Assessment	25
4.4 Compliance Assessment Process	26
4.5 Operational Definition of Compliance	27
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	32
4.7.3	Assessing Compliance with Paragraph 16: Weapons Protocols	33
4.7.4	Assessing Compliance with Paragraph 17: Weapons Modifications	34
4.7.5	Assessing Compliance with Paragraph 18: On-duty Weapons	35
4.7.6	Assessing Compliance with Paragraph 19: On Duty Weapons	36
4.7.7	Assessing Compliance with Paragraph 20: Weapons Qualifications	36
4.7.8	Assessing Compliance with Paragraph 21: Firearms Training	37
4.7.9	Assessing Compliance with Paragraph 22: Firearm Discharges from Moving Vehicles	37
4.7.10	Assessing Compliance with Paragraph 23: Tracking Firearm Discharges	38
4.7.11	Assessing Compliance with Paragraph 24: Use of ECWs	39
4.7.12	Assessing Compliance with Paragraph 25: ECW Verbal Warnings	40
4.7.13	Assessing Compliance with Paragraph 26: ECW Limitations	40
4.7.14	Assessing Compliance with Paragraph 27: ECW Cycling	41
4.7.15	Assessing Compliance with Paragraph 28: ECW Drive-Stun Mode	41
4.7.16	Assessing Compliance with Paragraph 29: ECW Reasonableness Factors	42
4.7.17	Assessing Compliance with Paragraph 30: ECW Targeting	43
4.7.18	Assessing Compliance with Paragraph 31: ECW Restrictions	43
4.7.19	Assessing Compliance with Paragraph 32: ECW Holster	44
4.7.20	Assessing Compliance with Paragraph 33: ECW Certifications	44
4.7.21	Assessing Compliance with Paragraph 34: ECW Annual Certification	45
4.7.23	Assessing Compliance with Paragraph 36: ECW Notifications	46

4.7.24 Assessing Compliance with Paragraph 37: ECW Safeguards	47
4.7.25 Assessing Compliance with Paragraph 38: ECW Reporting	47
4.7.26 Assessing Compliance with Paragraph 39: Crowd Control Policies	48
4.7.27 Compliance with Paragraph 40: After Action Reviews	50
4.7.28 Compliance with Paragraph 41: Use of Force Reporting Policy	51
4.7.29 Compliance with Paragraph 42: Force Reporting Policy	52
4.7.30 Compliance with Paragraph 43: Reporting Use of Force Injuries	52
4.7.31 Compliance with Paragraph 44: Medical Services and Force Injuries	53
4.7.32 Compliance with Paragraph 44: Medical Services and Force Injuries	54
4.7.33 Compliance with Paragraph 46: Force Investigations	55
4.7.34 Compliance with Paragraph 47: Quality of Force Investigations	58
4.7.35 Compliance with Paragraph 48: Force Classification Procedures	59
4.7.37 Compliance with Paragraph 50: Supervisory Response to Use of Force	60
4.7.38 Compliance with Paragraph 51: Self Review of Use of Force	61
4.7.39 Compliance with Paragraph 52: Supervisory Force Review	61
4.7.40 Compliance with Paragraph 53: Force Review Timelines	63
4.7.41 Compliance with Paragraph 54: Command Review of Force	64
4.7.42 Compliance with Paragraph 55: Force Review Evidence Standard	65
4.7.43 Compliance with Paragraph 56: Force Review Quality	65
4.7.44 Compliance with Paragraph 57: Force Review Board	66
4.7.45 Compliance with Paragraph 58: Reassignment of Force Review	67
4.7.46 Compliance with Paragraph 59: Abuse of Force Discipline	67
4.7.47 Compliance with Paragraph 60: IAB Force Review	68
4.7.48 Compliance with Paragraph 61: Criminal and Civil Force Investigations	68
4.7.49 Compliance with Paragraph 62: Revision of IAB Manual	69
4.7.50 Compliance with Paragraph 63: Staffing IAB	70

4.7.51 Compliance with Paragraph 64: Training IAB Personnel	71
4.7.52 Compliance with Paragraph 65: Referral of Force Investigations to MATF	71
4.7.53 Compliance with Paragraph 66: MATF Assistance to IAB	72
4.7.54 Compliance with Paragraph 67: Notice to External Agencies of Criminal Conduct in Use of Force	72
4.7.55 Compliance with Paragraph 68: Consultation with External Agencies and Compelled Statements	73
4.7.56 Compliance with Paragraph 69: IAB Responsibilities in Serious Uses of Force	73
4.7.57 Compliance with Paragraph 70: Use of Force Data Reports	75
4.7.58 Compliance with Paragraph 71: IAB Investigative Timelines	75
4.7.59 Compliance with Paragraph 72: IAB Report Review	77
4.7.60 Compliance with Paragraph 73: IAB Findings Not Supported by Preponderance of the Evidence	77
4.7.61 Compliance with Paragraph 74: IAB Quality Control	78
4.7.62 Compliance with Paragraph 75: IAB Reports Sent to Force Review Board	78
4.7.63 Compliance with Paragraph 76: Force Investigations by MATF or FBI	79
4.7.64 Compliance with Paragraph 77: Discipline on Sustained Investigations	79
4.7.65 Compliance with Paragraph 78: Force Review Board Responsibilities	80
4.7.66 Compliance with Paragraph 79: Annual Use of Force Report	81
4.7.67 Compliance with Paragraph 80: Tracking System for Officer Use of Force	83
4.7.68 Compliance with Paragraph 81: MATF Participation by APD	84
4.7.69 Compliance with Paragraph 82: Investigative Protocols for the MATF	85
4.7.70 Compliance with Paragraph 83: Coordination with MATF	86
4.7.71 Compliance with Paragraph 84: Briefings with MATF	86
4.7.72 Compliance with Paragraph 85: Expiration of MOU re MATF	87
4.7.73 Compliance with Paragraph 86: Review of Use of Force Policies and Training	87

4.7.74 Compliance with Paragraph 87: Use of Force Training Based on Constitutional Principles	88
4.7.75 Compliance with Paragraph 88: Annual Supervisory In-Service Training	90
4.7.76 Compliance with Paragraph 89: Annual Firearms Training	91
4.7.77 Compliance with Paragraph 90: Management of Specialized Units	92
4.7.78 Compliance with Paragraph 91: Composition of Specialized Tactical Units	93
4.7.79 Compliance with Paragraph 92: Training of Specialized Tactical Units	94
4.7.80 Compliance with Paragraph 93: Tactical Unit Missions and Policies	95
4.7.81 Compliance with Paragraph 94: Tactical Units Policy and Procedure	96
4.7.82 Compliance with Paragraph 95: Annual Review of Tactical Policy	97
4.7.83 Compliance with Paragraph 96: Documentation of Tactical Activities	98
4.7.84 Compliance with Paragraph 97: Tactical Mission Briefings	99
4.7.85 Compliance with Paragraph 98: Tactical Uniform Requirements	100
4.7.856 Compliance with Paragraph 99: Force Review Board Assessment of Tactical Deployments	101
4.7.87 Compliance with Paragraph 100: Eligibility Requirements for Tactical Teams	102
4.7.88 Compliance with Paragraph 101: Tactical Team Training	103
4.7.89 Compliance with Paragraph 102: Canine Post Deployment Reviews	104
4.7.90 Compliance with Paragraph 103: Tracking Canine Deployments	104
4.7.91 Compliance with Paragraph 104: Tracking Canine Bite Ratios	105
4.7.92 Compliance with Paragraph 105: Analyzing Tactical Deployments	106
4.7.93 Compliance with Paragraph 106: Specialized Investigative Unit Policies and SOPs	107
4.7.94 Compliance with Paragraph 107: Protocols for High-Risk Situations	107
4.7.95 Compliance with Paragraph 108: Inspection of Specialized Units	108
4.7.96 Compliance with Paragraph 109: Tracking Specialized Unit Responses	108

4.7.97 Compliance with Paragraph 110: Minimize Use of Force with Those in Crisis	109
4.7.98 Compliance with Paragraph 111: Establish Mental Health Response Advisory Committee	109
4.7.99 Compliance with Paragraph 112: Representation on MHRAC	110
4.7.100 Compliance with Paragraph 113: MHRAC Provides Guidance to City	111
4.7.101 Compliance with Paragraph 114 requires: MHRAC Protocols	112
4.7.102 Compliance with Paragraph 115: APD Provided Data to MHRAC	112
4.7.102 Compliance with Paragraph 115: APD Provided Data to MHRAC	112
4.7.103 Compliance with Paragraph 116: MHRAC Coordinates with Local Systems	113
4.7.104 Compliance with Paragraph 117: MHRAC Public Reports	113
4.7.106 Compliance with Paragraph 120: Crisis Intervention Training	114
4.7.107 Compliance with Paragraph 121: Training Tele-communicators	115
4.7.108 Compliance with Paragraph 122: Bi-Annual Training in Behavioral Health Issues	116
4.7.109 Compliance with Paragraph 123: Crisis Intervention Certified Responders Staffing	116
4.7.110 Compliance with Paragraph 124: Crisis Intervention Staffing Goals	117
4.7.111 Compliance with Paragraph 125: Crisis Intervention Training	118
4.7.112 Compliance with Paragraph 126: Crisis Intervention In-Service Training	118
4.7.113 Compliance with Paragraph 127: Staffing of Crisis Intervention Responders	119
4.7.114 Compliance with Paragraph 128: Responsibilities for Response to Individuals in Crisis	119
4.7.115 Compliance with Paragraph 129: Data Collection on Use of Crisis Intervention Responders	120
4.7.116 Compliance with Paragraph 130: Building Case Studies for Teaching Scenarios for Crisis Responders	120
4.7.117 Compliance with Paragraph 131: Protocols for Response to Barricaded or Suicidal Subjects Not Posing Risk of Imminent Harm	121
4.7.118 Compliance with Paragraph 132: COAST and CIU Follow Up	123

4.7.121 Compliance with Paragraph 135: Staffing Levels for COAST and CIU	124
4.7.122 Compliance with Paragraph 136: Improving COAST/CIU Outreach	124
4.7.123 Compliance with Paragraph 137: Impact Analysis for Crisis Prevention	125
4.7.124 Compliance with Paragraphs 138-161 Training	126
4.7.126 Compliance with Paragraph 163: Duty to Report Misconduct	128
4.7.127 Compliance with Task 164: Public Information on Civilian Complaints	129
4.7.128 Compliance with Paragraph 165: Availability of Complaint Forms	130
4.7.129 Compliance with Paragraph 166: Public Information on Complaint Process	131
4.7.130 Compliance with Paragraph 167: Duty to Accept all Civilian Complaints	132
4.7.131 Compliance with Paragraph 168: Requirement for Multi-lingual Complaint Forms	133
4.7.132 Compliance with Paragraph 169: Training on Civilian Complaint Process	134
4.7.133 Compliance with Paragraph 170: Complaint Receipt Process	135
4.7.134 Compliance with Paragraph 171: Prohibition of Refusal to Take Complaint	136
4.7.135 Compliance with Paragraph 172: Acceptance of Anonymous and Third-Party Complaints	136
4.7.136 Compliance with Paragraph 173: Requirement to Inform Supervisor of Citizen Complaint	137
4.7.137 Compliance with Paragraph 174: Inclusion of Allegations of Misconduct by Civil or Criminal Judicial Officers	137
4.7.138 Compliance with Paragraph 175: Tracking Allegations Made by Homeless or Those Who Have Mental Illness	139
4.7.139 Compliance with Paragraph 176: Centralized Numbering System for Citizens' Complaints	139
4.7.140 Compliance with Paragraph 177: IAB Complaint Data Management	140
4.7.141 Compliance with Paragraph 178: Supervisors to Provide Complaint Information to IAB	141
4.7.142 Compliance with Paragraph 179: Civilian Complaints to be Referred to CPOA by IAB	142

4.7.143 Paragraph 180: Handling of Internal Complaints by IAB	142
4.7.144 Compliance with Paragraph 181: IAB Complaint Classification Protocol	143
4.7.145 Compliance with Paragraph 182: Prohibition from Self-Investigation of Use of Force by Supervisors	144
4.7.146 Compliance with Paragraph 183: APD and CPOA Investigations Thorough and Reach Reliable Conclusions	145
4.7.147 Compliance with Paragraph 184: Complaint Investigations Documented in Writing	146
4.7.148 Compliance with Paragraph 185: Officers Required to Cooperate with IAB/CPOA Investigations	146
4.7.149 Compliance with Paragraph 186: Protocols to Separate Administrative and Criminal Investigations	147
4.7.150 Compliance with Paragraph 187: Advisement of Fifth Amendment Rights for Officers	148
4.7.151 Compliance with Paragraph 188: Notification and Processing of Criminal Conduct by APD Officers	149
4.7.152 Compliance with Paragraph 189: Provision of Public Statements	150
4.7.153 Compliance with Paragraph 190: Requirement to Consider all Relevant Evidence	151
4.7.154 Compliance with Paragraph 191: 90 Days to Complete Administrative Investigations	152
4.7.155 Compliance with Paragraph 192: Acceptable Case Dispositions	153
4.7.156 Compliance with Paragraph 193: Reopening Administrative Investigations	154
4.7.157 Compliance with Paragraph 194: Assessing Compliance with Training and Legal Standards	154
4.7.158 Compliance with Paragraph 195: Retaliation Prohibited	155
4.7.159 Compliance with Paragraph 196: Review of Anti-Retaliation Statements	156
4.7.160 Compliance with Paragraph 197: Retaliation Grounds for Discipline	156
4.7.161 Compliance with Paragraph 198: Staffing Levels at IAB and CPOA	157

4.7.162 Compliance with Paragraph 199: Initial Training Required for APD Internal Investigators	158
4.7.163 Compliance with Paragraph 200: Initial Training Required for CPOA Investigators	158
4.7.164 Compliance with Paragraph 201: Discipline to be Fair and Fact-based	159
4.7.165 Compliance with Paragraph 202: Disciplinary Matrix Required	160
4.7.166 Compliance with Paragraphs 203-211 Staffing Study	161
4.7.168 Compliance with Paragraph 213: EIS Threshold Levels	162
4.7.169 Compliance with Paragraph 214: EIS Rolling Thresholds	163
4.7.170 Compliance with Paragraph 215: EIS Requirements	163
4.7.171 Compliance with Paragraph 216: EIS Protocols	164
4.7.172 Compliance with Paragraph 217: Retention Schedule for EIS Data	165
4.7.173 Compliance with Paragraph 218: Training Regarding EIS	166
4.7.174 Compliance with Paragraph 219: Updates and Revisions to EIS	166
4.7.175 Compliance with Paragraph 220: Use of On-Body Recording Devices	167
4.7.176 Compliance with Paragraph 221: Review of OBRD Procedures by DOJ and the Monitor	168
4.7.177 Compliance with Paragraph 222: Training on OBRD Use	168
4.7.178 Compliance with Paragraph 223: Testing Schedule for OBRD	169
4.7.179 Compliance with Paragraph 224: Supervision of OBRD Use	170
4.7.180 Compliance with Paragraph 225: Review of OBRD Video	170
4.7.181 Compliance with Paragraph 226: Compliance with Laws and Regulations Regarding OBRD	171
4.7.182 Compliance with Paragraph 227: Storage of OBRD Video	171
4.7.183 Compliance with Paragraph 228: Reporting Reasons for Failing to Record via OBRD	172
4.7.184 Compliance with Paragraph 229: OBRD Video Used Only for Official Law Enforcement Duties	172
4.7.185 Compliance with Paragraph 230: Storage of OBRD Video	173
4.7.186 Compliance with Paragraph 231: OBRD Best Practices	173

4.7.187 Compliance with Paragraph 233: Recruitment and Selection Planning	174
4.7.188 Compliance with Paragraph 234: Recruiting and Selection Standards	175
4.7.189 Compliance with Paragraph 235: Consultation with Community Stakeholders re Recruiting	175
4.7.190 Compliance with Paragraph 236: Objective Systems for Selection and Hiring of Recruits	176
4.7.191 Compliance with Paragraph 237: Selection Processes Articulated	176
4.7.192 Compliance with Paragraph 238: Background Investigations for Recruits	177
4.7.193 Compliance with Paragraph 239: Background Investigations for Lateral Hires	177
4.7.194 Compliance with Paragraph 240: Recruiting Annual Reports	178
4.7.195 Compliance with Paragraph 241: Fair Promotion Practices	179
4.7.196 Compliance with Paragraph 242: Objective Criteria for Promotions	179
4.7.197 Compliance with Paragraph 243: Removal of Officers for Consideration for Promotion	180
4.7.198 Compliance with Paragraph 244: Fair Performance Evaluations	180
4.7.199 Compliance with Paragraph 245: Annual Performance Evaluations	181
4.7.200 Compliance with Paragraphs 255-270: Community Outreach	181
4.7.201 Compliance with Paragraph 271: Responsibilities of CPOA	182
4.7.202 Compliance with Paragraph 272: CPOA Independence	182
4.7.203 Compliance with Paragraph 273: Membership of CPOA	183
4.7.204 Compliance with Paragraph 274: Training for CPOA	184
4.7.205 Compliance with Paragraph 275: On-Going Training for CPOA	185
4.7.206 Compliance with Paragraph 276: Field Training for CPOA	186
4.7.207 Compliance with Paragraph 277: Resources for CPOA	187
4.7.208 Compliance with Paragraph 278: Budget for CPOA	188
4.7.209 Compliance with Paragraph 279 : Investigative Staff for CPOA	188

4.7.210 Compliance with Paragraph 280: CPOA Complaint Intake and Processing	189
4.7.211 Compliance with Paragraph 281: CPOA Investigative Case Assignment and Processing	189
4.7.212 Compliance with Paragraph 282: CPOA Access to Needed Documents	190
4.7.213 Compliance with Paragraph 283: Access to Records by CPOA	191
4.7.214 Compliance with Paragraph 284: Confidentiality Protocols at CPOA	192
4.7.215 Compliance with Paragraph 285: CPOA to Recommend Discipline	192
4.7.216 Compliance with Paragraph 286: Documentation of CPOA Findings at APD	193
4.7.217 Compliance with Paragraph 287: Appeals of CPOA Findings	194
4.7.218 Compliance with Paragraph 288: CPOA Recommendations Regarding APD Policy and Training	194
4.7.219 Compliance with Paragraph 289: Chief's Documentation of Reasons Declining Policy Changes	195
4.7.220 Compliance with Paragraph 290: CPOA Public Meetings	196
4.7.222 Compliance with Paragraph 291: CPOA Community Outreach	196
4.7.223 Compliance with Paragraph 292: CPOA Semi-Annual Reports	197
4.7.224 Compliance with Paragraph 320: Notice to the Monitor of Officer Involved Shootings	198
5.0 Methodology	200
6.0 Summary	201
Appendix One	205

1.0 INTRODUCTION

The following document constitutes the Independent Monitor's first 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 six sections:

1. Introduction;
2. Executive Summary;
3. Findings Regarding Two-, Three- and Six-Month Submissions;
4. Baseline Status;
5. Methodology; and
6. 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 280 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 first site visit. As usual, the monitor's first report, in effect, represents a "baseline" from which improvements can be crafted. Full disclosure of the report 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 through discussion of the findings of the first report by monitor-sponsored public meetings throughout the City. The reader is reminded that this document is a "first 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 first step of a four-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. Literally, the first report is the most critical of all the reports, as it identifies each and every point of improvement necessary for the APD to come into compliance with the CASA, and thus to conform with nationally accepted standards and practices in American policing. 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 report serves as a baseline for organizational development over the remaining life of the CASA.

2.0 Executive Summary

Complex institutional change is never simple or fast. It cannot be rushed. Good policies take time to write; training based on those policies must be developed with care; and ensuring that those policies and training are put into practice in the field requires observation, supervision, data collection, and analysis over a period of time. The City of Albuquerque has demonstrated a commitment to effective change, but much work lies ahead. Change will indeed come, and, when it does, the public will be able to see it, because it will be documented and reported impartially in this and the other monitor's reports to come.

This is the first of several monitor's reports. Under the Court-Approved Settlement Agreement (CASA), the monitor is to issue public reports on the City's progress every four months for the first two years of the CASA, and then every six months for the subsequent two 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 February 1, 2015 through May 31, 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 and a fuller 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 made 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 a 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 Training;
- VIII. Officer Assistance Programs; and
- 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

Fostering the constitutional use of force is the primary goal of this entire effort, and every provision of the CASA is aimed, directly or indirectly, at achieving that goal. Doing so will eventually involve an array of components, all working in tandem: 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 problems arise; accountability systems that appropriately address where they arise; and community engagement that fosters collaboration between officers and the communities they serve.

APD is still developing all of these components. The monitoring team reviewed a random sample of 16 reports of uses of force by APD officers that occurred during the reporting period, out of a total of 50 such reports that were generated during that period. The monitoring team requested videos from the involved officers' on-body recording systems, but due to identification and retrieval issues (discussed at greater length in section 2.52 of the report), APD provided those videos too late for the monitoring team to review all of them in time. Nevertheless, the monitoring team was able to complete a meaningful review of two of the 16 incidents, each of which raised concerns.

In the first incident, an officer fired his electronic control weapon, or Taser, at a fleeing suspect and stuck him in the head. Intentionally targeting a suspect's head is expressly prohibited by APD's use of force policy and the CASA. However, the supervisor who investigated the officer's use of force failed to identify the head strike as an issue, as did the entire chain of command that reviewed the supervisor's investigation. We made no determination of whether the head strike was intentional or not; that is the role of the investigating supervisor. This incident, occurred prior to the time that APD's new Use of Force

Policy was written or trained (in fact, as of the writing of this first report, the APD's use of force policy is still not complete). This incident does, however, constitute a strong indication of how important progress is on departmental policy. In the monitoring team's experience, without strong, well-written, clear policy, training will be ineffective. Without strong policy-based training, supervision is, at best, difficult and at worst, impossible. In addition, based on the monitoring team's experience, without effective supervision, positive change is all but impossible.

The second incident was more problematic and also involved failures by supervisors and the chain of command to identify significant issues. Officers responded to a report of an armed robbery, and police lieutenant came across someone matching the suspect's description. The suspect fled, and the lieutenant chased him on foot. The suspect eventually stopped, and the lieutenant ordered him to get on the ground, but he refused to do so. Instead the suspect came towards the lieutenant, who warned him that he would use his Taser if the suspect did not get on the ground. When the suspect continued to advance, the lieutenant fired his Taser. The suspect tried to pull the Taser's wires off, and the officer cycled his Taser a second time. Two more officers arrived and also tried giving commands to get on the ground to no avail. One of the officers fired his Taser at the suspect and also cycled it twice. A fourth officer arrived and helped handcuff the suspect, who was then face-down on the ground and violently resisting the officers. At one point, it appears that one officer placed his knee on the man's neck in a way that may have constituted a neck hold, which is categorized by the CASA as lethal force.

Finally, the investigation conducted by APD should have considered whether lethal force—the possible neck hold—was used, and, if so, if lethal force was warranted under the circumstances.

This incident does, however, constitutes a strong indication of how important progress is on departmental policy, both regarding use of force and investigations of use of force. In the monitoring team's experience, without strong, well-written, clear policy, training will be ineffective. Without strong policy-based training, supervision is, at best, difficult and at worst, impossible. In addition, based on the monitoring team's experience, without effective supervision, positive change is all but impossible. As of the date this first report was drafted, APD had not yet developed, written, and had approved a suitable use of force policy. Nor had it produced an Internal Affairs policy, as required by the CASA. Both policies are considered by the monitoring team to be **critical** if APD is to move forward successfully in its attempt to comply with the requirements of the CASA.

These two incidents reflected current APD practice, guided by policy critically needs to be assessed and revised. These incidents indicate the extreme importance of APD's development of policy congruent with the requirements of the CASA. The monitoring team have twice worked with the APD to provide

guidance regarding the pending APD use of force policy. As of yet, no use of force policy has been developed that can be approved by the monitor.

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 train on an ongoing basis, and they report that 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 balanced 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.

Likely as a result of these improvements, APD saw commendable results from its tactical operations, many of which were resolved without any force being used. The monitoring team reviewed 18 tactical operations, all of which involved violent crimes. Crisis negotiators directly resolved six of these incidents and played a significant role in most other incidents. In one case involving a suicidal subject, SWAT personnel withdrew from the scene because there was no basis for further action, and the suicidal person posed no risk to others. These actions avoided a potentially fatal encounter without creating significant risk to the general public. We found that incident commanders exhibited 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.

In the CASA, APD committed to disbanding the Repeat Offender Project (ROP), which it has done. That unit had operated much like a tactical unit when its mission and training were focused on conducting investigations. By disbanding ROP, APD has ensured that it will deploy the most aggressive weapons and tactics only in the extreme circumstances that warrant them and only in the hands of the officers best suited to use them.

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.

Even though this provision of the CASA falls into the category of requirements that are not yet due, the City has already established the Committee and placed APD staff on it who are actively engaged and supportive.

It appears from the minutes of the Committee's meetings that it has been forming subcommittees, developing a website, and focusing on other logistics, all of which are critical for this new effort in its early stages. Representatives from the Committee visited the Portland, Oregon police department to learn more about their approaches to incidents involving individuals in mental health crisis. The Committee has also begun developing scenario-based training for officers on these kinds of encounters. We are encouraged by this enthusiastic beginning to this project.

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.

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, policy development processes at APD are in need of significant and immediate revision. Responsibilities for policy writing, dissemination, revision, and assessment 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 the degree to which the PPRB is involved in crafting and revising policies. 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. This may simply be a reflection of the fact that, as of the effective dates for this report (February 1-May 31, 2015) no critical APD policies had been re-written and "implemented" through training, supervision and discipline.

In terms of the policies that APD has drafted so far, they have been 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 gave failing marks to critical policy elements on their initial reviews, finding fatal flaws in APD's policies covering use of force, internal affairs, supervision, and other areas.

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. Fortunately, there is time to correct the deficiencies in policy development because most of the training that is required under the CASA is not due until a year or a year and a half after the court approved the CASA — June and December 2016. APD thus has an opportunity to correct its course on policy development in time 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. 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.

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

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 reviewed the operation of these three entities during its initial site visit in June, 2015, and have found, as could be expected in any human system, room for improvements. These findings have been provided to the APD IAD, and POB through conversations with each entity's "command," the Chief of Police, the Executive Director of the CPOA, and the Chair of the POB. A new staff attorney and a new Executive Director of CPOA are "on task," as is a new Chair of the POB.

2.1.6 Staffing, Management and Supervision

Issues related to APD staffing, management, and supervision were basically put “on hold” by the APD until a contract with Alexander Weiss and Associates was developed, funded and executed. 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. Full written results of Dr. Weiss’ work are expected shortly, after which, APD will begin melding the recommendations of Dr. Weiss with the requirements of the CASA. The monitoring team stands ready to provide technical assistance as needed to ensure that decisions made by APD in response to Dr. Weiss’ recommendations are responsive to the requirements of the CASA.

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 work product was submitted to the monitoring team for review regarding this topic for this reporting period (January, 2015-through May 2015).

2.1.8 Officer Assistance Programs

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, although APD *has* begun implementation and compliance activities designed to develop systems that will meet or exceed the stipulations of this section of the CASA.

2.1.8 Community Engagement and Oversight

Issues related to community oversight are addressed partially in section 2.1.5, above. In addition to those findings, the following are important findings of the monitoring team related to community engagement. 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. During the initial site visit, the monitoring team found and documented some “growing pains” with the engagement and oversight component of the CASA.

By the end of the first reporting period, most members had completed the one required “ride-along,” and 25 percent had completed the 12-week Citizens’ Police Academy. As a result of the issues of meeting required standards, APD has acknowledged the need to expand the number of voting members to ensure a representative cross section of participants. Meeting space has been allocated and APD has provided a contracted facilitator to support each CPC. The City also has developed websites for each CPC. A great deal of maturation with the CPC is expected. It is early in the process, and the expectations of the CPCs are high. The CPC process is still basically in the organizational stages, getting the ground-rules down, and beginning to think about future issues. Interestingly, information about the CASA and APD’s compliance efforts are not yet being shared with the CPCs. An Annual Report for the CPCs is expected by the end of 2015.

2.2 Overview

This first monitor’s report is being 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 this 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 nationwide 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.

The monitoring team is committed to assisting APD's command staff, if so desired, in overcoming this late start by going the extra mile, including, if necessary, working closely with APD in forging new (and revising old) policies, articulating clear guidelines and practices for APD's intensive training of departmental supervisors and managers, assisting APD in building assessment tools designed to identify problematic behaviors, and advising on best practices that can be adopted by APD as it moves forward in its efforts to meet the individual and global requirements of the CASA. The monitoring team has agreed to have a series of structured conversations with command staff designed to ensure joint understanding of critical concepts relating to implementation of the CASA. While not directly constituting training, these sessions will illuminate the road in front of us, ensure joint understanding and communication, and remove some of the natural uncertainty in the process that lies ahead.

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 in June 2015. Judge Brack approved these modifications in September 2015.

As noted above, this report covers February through May 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. Nevertheless, between November 2014 and May 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 Findings Concerning APD Compliance on Two- Three- and Six-Month CASA Requirements

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 court-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.

Data for this report were selected by May 31, 2015, allowing time for APD to identify, collect and respond to the data requests, 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 followed in all following reports. Follow-up requests were made where necessary.

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

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.

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.

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 decree.

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 policies 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. 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.

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

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.

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 is currently "pending."

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**

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. These were not available during the first reporting period, as they were still under development by the newly-appointed counsel to the CPOA. 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 complaint process. While "not yet due," the team noted, for example, community outreach through advertisements, posters and placards describing the civilian complaint 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.

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.

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.

Results

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

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 indicates that the agency has revised its 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

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 24, 2015.

Results

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

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 indicate that no such action has occurred.

Results

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

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.

Results

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

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 will be evaluated during the second reporting period, after all six-month submissions are 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 (February-May, 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.

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 strongly suggest 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 BASELINE STATUS

As part of the monitoring team's normal course of business, it has established a base-line assessment of *all* paragraphs of the CASA in an attempt to provide the Parties with a snap-shot 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.

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 CASA, 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;

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 directly by APD in response to the requirements of the CASA, 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 first report were selected by May 31, 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 sergeants are routinely held accountable for compliance by their lieutenants and command staff. 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. Substantial delays have already occurred. Funding issues delayed the monitoring team's arrival¹. As a result conversations that should have been had early on were not had until relatively late in the initial stages of APD's planning and implementation. As a result false starts were made. To its credit, APD forged ahead without substantial guidance and oversight from a fully funded monitoring team, and, while laudable, many of these early starts were not in line with the standards later articulated by the monitoring team to the command staff of APD. As a result, policies had to be revised, rewritten, and reassessed, after the APD received input and feedback from the monitoring team. Training, which, as a matter of nation-wide practice, cannot begin until the policy that under-girds the training is written, evaluated, and approved. Officers cannot be held accountable for performance until they are trained in the implementation of the articulated policy. Sergeants cannot be held accountable for enforcing policy among their subordinates until operative policy is written, promulgated and trained. The same is true for lieutenants' oversight of sergeants, captains' and majors' oversight of lieutenants, etc. The monitoring team is committed to assisting APD command staff, if so desired, in overcoming this unavoidable "late start" by going the extra mile, including, if necessary, working closely with the APD in forging new, and revising old policies, articulating clear guidelines and practices for APD's intensive training of departmental 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 chapter of the Monitor's First Report articulates processes and findings related to each of the 280² active elements of the CASA.

¹ Secure, predictable funding for the project was not obtained until May 21, 2015, and the first full monitoring team site visit did not occur until the following month.

² 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.

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 using the *Monitor's Manual*, included in Appendix A, below. 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 date of the report. Each of the requirements of the CASA is discussed relative to its compliance level in the paragraphs the follow.

4.7.1 Assessing Compliance with Paragraph 14^{3,4}

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;**

³ 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.

⁴ Paragraph 13 is not evaluated, as it is a policy statement, intended to introduce the operational paragraphs that follow concerning use of force.

- 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.

Pursuant to CASA requirements, APD submitted a new use of force policy---Procedural Order 2-52 Use of Force (December 4, 2014)--- to the DOJ and the monitoring team for review. The results of the two reviews were communicated to APD in both writing and during a June 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. 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 review the second draft for evaluation this reporting period. However, the monitoring team did conduct a limited review and found that APD has made numerous improvements to bring the draft closer to compliance. To the extent possible, the monitoring team has incorporated comments on a number of significant improvements in the second draft during this review.

It appears from a review of the documents available to the monitoring team, that APD did not route the first draft of its "Use of Force" policy through its Policy and Procedures Review Board (PPRB) established by Administrative Order 3-65 "Policy and Procedures Review Board (May 10, 2012)"; nor, it appears, did the agency consult with APD subject matter experts and instructors on the use of force. The involvement of the PPRB in the policy development process is expressly mandated in

Paragraph 142 of the CASA, and is viewed of paramount importance by the monitoring team. The monitoring team continues to express concern that APD fails to engage either entity in the policy development process.

APD has a number of other orders that are related to the overarching use of force directive. As an example, Procedural Order 2-31 Investigation of Shootings and the Use of Deadly Force Involving Departmental Personnel (March 20, 2015) which also needs to be reviewed and updated to ensure that it aligns with other use of force policies. Based upon apparent significant improvements in the second draft, the monitoring team believes that APD can achieve policy compliance with further refinement and several enhancements. APD staff overseeing the drafting process has demonstrated a sincere commitment to meeting CASA requirements and producing directives that conform to general standards for policy development and draftsmanship. They have also been especially receptive to feedback from the monitoring team. The monitoring team will provide timely feedback on the second draft to expedite final approval. This input will, by necessity, come during the second reporting period, from June to November, 2015. Initial (informal) feedback has already been provided to APD command staff.

APD recognized the need to consult with outside police agencies in order to advance their efforts to meet CASA requirements. As a demonstration of their commitment, a contingent of APD representatives traveled to New Jersey to meet with representatives of the New Jersey State Police, who themselves were successful in meeting the requirements of their own consent decree. A monitoring team representative was present for the initial kickoff meeting on August 3, 2015, at the NJSP Division HQ. APD personnel were given access to command and front line personnel from a variety of areas including the NJSP academy, Field Operations Section, Internal Affairs (Office of Professional Standards), Special Operations, policy development representatives and members of the Management Accountability and Personnel Performance System (MAPPS) Unit. Over the course of three days they received information on best practices in each of these specific areas, including areas concerning law enforcement risk management. Finally, they met with the Superintendent of the NJSP, who successfully led the NJSP to full compliance, and received the perspective of a law enforcement commander who understands the importance of reform and the steps that must be taken to affect organizational change. APD is commended for taking this important step and is encouraged to continue meeting with agencies who have demonstrated superior standards and have established business processes that promote the sustainability of that reform.

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.

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. In addition, members of the monitoring team reviewed On-Body Recording Device (OBRD) video covering 16 APD incidents of use of force, reviewed the official reports prepared by officers relating to those uses of force, reviewed supervisory responses to the incidents, and reviewed other supporting documentation such as APD’s “Use of Force Data Sheet.”

Results

Existing policy and the first draft of the new policy fail to provide the foundation for effective training and supervision of use of force by APD officers. Further, the 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.

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 version of the Use of Force policy provided by APD, and have scanned the second version, submitted to the team in September, 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 will not accept the 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. 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 will provide in-depth feedback to APD staff on the new separate order on Electronic Control Weapons (ECW), which was completed too late to be included in the Team's current evaluation of use of force issues. The monitoring team will also review the question of how best to handle policy and procedures on individual tools, including standardized subject headings, and will share its conclusions with the APD SMEs and command staff during the second site visit in November, 2015.

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.

Methodology

Members of the monitoring team have reviewed policy 2-52 (Use of Force) as it applies to paragraph 17. Based on records available from the department, compliance with this paragraph is attained during the process of state-mandated qualification processes, and are required by State certification practices. Members of the monitoring team will revisit these training and equipping issues on the second site visit in November, 2015. No on-site inspections were conducted during the first reporting period, although such visits **will be conducted** during follow-up visits, after departmental policy and training have had time to impact officer, supervisory and command activity.

Results

From a practical standpoint, the APD's operative policy for this paragraph was 2-52-2 at the time of the monitoring team's review. This policy was not in compliance with the requirements of paragraph 17 relating to policy. That policy's section "I" defines a firearm as a "tool" and states at paragraph A, "Officers will use only those tools and techniques with which they have been trained unless the threat escalates so rapidly the officer must use any means necessary to defend themselves or another." This policy does not comply with the intent of paragraph 17 in the opinion of the monitoring team.

No detailed analysis will be provided until such time as DOJ has had an opportunity to review and comment on related proposed policy.

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

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

Members of the monitoring team reviewed APD policies regarding approved firearms and ammunition provided by the APD as part of their normal course of daily business. By the end of May, 2015, 787 of 965 officers had been trained and or re-trained and had qualified as required by the State of New Mexico. Based on the monitoring team's familiarity with police requalification, it is highly likely that the 178 officers not trained in the January-May time period had been trained and qualified late in the previous year. Members of the monitoring team will revisit these training and equipping issues on the second site visit in November, 2015.

Results

From a policy standpoint, the APD's operative policy for this paragraph at the time of the monitoring team's review was 2-22, dated 12-11-14. This policy defines "Duty Handguns" as those handguns the "department will furnish [to] each officer..." and further states "This is the only handgun authorized to be carried on duty" 2-22-3 at 1 a. This policy complies with the intent of paragraph 17 in the opinion of the monitoring team.

On future visits, members of the monitoring team will personally visually monitor on-duty weapons carried by officers through the process or roll call attendance, ride-alongs, and other unscheduled and unannounced observations.

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 normal COB records kept by the APD reflecting firearms qualifications for the year 2015. Between February 1, 2015 through March 31, 2015, the APD "requalified" 721 of its officers on their approved on-duty firearms, at which time the officers' "on-duty" weapons are verified to meet the requirements of policy 2-22, and hence also paragraph 19 of the CASA. As of the date of this first report, however, APD has yet to develop, as required by the CASA, an approved use of force policy, which is a required part of the compliance process for this task. The monitor is concerned that the delay in successful development of this policy will hinder the APDs ability to train, supervise, and, where necessary, retrain, officers in topics related to use of force. This policy is an integral part of the weapons requalification process. This CASA task is not yet due.

Results

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 the in-effect policy regarding this provision, APD Procedural Order 2-22 "Firearms and Ammunition Authorization," which requires annual qualification for "any weapon" carried by APD personnel. The newly revised 2-22 requires officers to qualify with their duty handguns "on the course of fire established by the

NM Department of Public Safety,” and also requires qualification each calendar year with “every firearm currently carried on duty, off duty, or as a backup.”

Primary: **Not Yet Due**
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 unholstering, drawing, or exhibiting a firearm.

Methodology

The currently active procedural order on use of firearms (2-52-6) includes guidance on when to un-holster, draw and/or exhibit a firearm. This policy should be revisited by APD once the agency’s Use of Force policy is completed, to insure that 2-52-6 conform to the revised use of force requirements. Current policy holds APD personnel to the higher standard of “only when deadly force can be reasonably anticipated” for drawing or exhibiting a firearm. Training on this policy has yet to commence for reasons described in the previous paragraph.

Results

Primary: **Not Yet Due**
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 the second draft of Procedural Order 2-52 Use of Force with respect to the requirements pertaining to discharging a firearm at or from a moving vehicle.

The monitoring team found that the draft language of APD's current Use of Force Policy falls short of compliance because of one omission and additional language that permits action that seems to place APD policy in direct conflict the language of this paragraph's requirement. Specifically, the draft does not include the language "...other than the vehicle itself..." in the first sentence, which changes the meaning. The draft then continues with language that officers may respond with lethal force against the driver of a vehicle if the driver is using a vehicle itself as lethal force, though the language appears to distinguish between shooting to disable a vehicle and shooting at a driver using the vehicle as a deadly weapon.

Results

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 "under development."

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**

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.

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

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, which did not provide the monitoring team with adequate time to review, critique, and staff and prepare comments on the proposed policy before writing of the draft Independent Monitor's Report (IMR) 1 commenced. Thus compliance with this paragraph will be discussed in future monitor's reports.

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 under review by the monitoring team and DOJ.

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

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR-1 commenced in early September, 2015. This policy is currently under review by the monitoring team and DOJ.

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, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR 1 commenced in early September, 2015. The policy will be reviewed and annotated thoroughly after it is developed fully by APD and submitted to the monitoring team and DOJ. The monitoring team will report on these policies during its second monitoring report.

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, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR 1 commenced in early September, 2015. The policy will be reviewed and annotated thoroughly after it is developed fully by APD and submitted to the monitoring team. The monitoring team will report on these policies during its second monitoring report.

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, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR 1 commenced in early September, 2015. The policy will be reviewed and annotated thoroughly after it is developed fully by APD and submitted to the monitoring team and DOJ. The monitoring team will report on these policies during its second monitoring report.

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, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR 1 commenced in early September, 2015. The policy will be reviewed and annotated thoroughly after it is developed fully by APD and submitted to the monitoring team and DOJ. The monitoring team will report on these policies during its second monitoring report.

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, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR 1 commenced in early September, 2015. The policy will be reviewed and annotated thoroughly after it is developed fully by APD and submitted to the monitoring team and DOJ. The monitoring team will report on these policies during its second monitoring report.

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:

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

Methodology

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR 1 commenced in early September, 2015. The policy will be reviewed and annotated thoroughly after it is developed fully by APD and submitted to the monitoring team and DOJ. The monitoring team will report on these policies during its second monitoring report.

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, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR 1 commenced in early September, 2015. The policy will be reviewed and annotated thoroughly after it is developed fully by APD and submitted to

the monitoring team and DOJ. The monitoring team will report on these policies during its second monitoring report.

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, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR 1 commenced in early September, 2015. The policy will be reviewed and annotated thoroughly after it is developed fully by APD and submitted to the monitoring team and DOJ. The monitoring team will report on these policies during its second monitoring report.

Results

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

4.7.22 Assessing Compliance with Paragraph 35

Paragraph 35 stipulates:

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

Methodology

PO 2-53, "Electronic Control Weapons" dated July 2, 2015 was provided to the monitoring team on September 2, 2015, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR 1 commenced in early September, 2015. The policy will be reviewed and annotated thoroughly after it is developed fully by APD and submitted to the monitoring team and DOJ. The monitoring team will report on these policies during its second monitoring report.

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, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR 1 commenced in early September, 2015. The policy will be reviewed and annotated thoroughly after it is developed fully by APD and submitted to the monitoring team and DOJ. The monitoring team will report on these policies during its second monitoring report.

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, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR 1 commenced in early September, 2015. The policy will be reviewed and annotated thoroughly after it is developed fully by APD and submitted to the monitoring team and DOJ. The monitoring team will report on these policies during its second monitoring report.

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, which did not provide the monitoring team with adequate time to review, critique, staff and prepare comments on the proposed policy before writing of the draft IMR 1 commenced in early September, 2015. The policy will be reviewed and annotated thoroughly after it is developed fully by APD and submitted to

the monitoring team and DOJ. The monitoring team will report on these policies during its second monitoring report.

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 reviewed General Order 1-46 Emergency Response Team (ERT) (January 23, 2014), Procedural Order 2-45 Use of Canine Unit (June 22, 2015), Procedural Order 2-52 Use of Force (June 4, 2014), and Draft Procedural Order 2-52 Use of Force (December 12, 2014) in our initial review. Subsequently, we located four additional policies: Field Services SOP Manual 4-12 K-9 Unit (December 5, 2013), Draft Procedural Order 2-45 Use of Canine Unit (August 6, 2015), Draft Order 4-12 K-9 Unit (undated), and Administrative Order 3-19 Response to Demonstrations (July 8, 2015). The version we received of the last order is a single-page document that is more responsive to sub-tasks a), b), and c). The monitoring team believes that there may be additional pages in the order, however, and will check on this issue in its November visit. The July 8, 2015 order is far more responsive to sub-tasks a), b), and c) in Paragraph 39, but the monitoring team is unable to determine if it complies with the requirement in 39. d) until we receive additional pages (assuming they exist). The monitoring team will report on these policies during its second monitoring report.

The Field Services version includes a section heading Crowd Control, which ***specifically authorizes both canine presence and deployment in crowd control situations. This provision conflicts directly with the requirements of CASA.*** The monitoring team notes that this appears to be a Bureau-level policy in contrast to an agency-level policy. APD should consider conducting an end-to-end review of its policy directives system to eliminate such conflicts and minimize the number of policy directives in circulation that have a common subject matter. It also should consider examining the alignment of different policy-generating sources and install some means of coordination and oversight to minimize confusion, eliminate conflicts and inconsistencies, and reduce inefficiencies.

General Order 1-46 Emergency Response Team (ERT) (January 23, 2014), which includes “demonstrations” within its scope, fails to clearly describe APD’s mission during such events in the opening policy section, set forth specific strategies for “encouraging the peaceful and lawful gathering of individuals”, and describe “crowd control techniques that safeguard the fundamental rights of individuals to gather and speak out legally.”

General Order 1-46 also permits deployment of canines in crowd control situations under certain conditions (See 1-46-8 and 1-46-10), in direct conflict with the CASA. Again, the City failed to provide DOJ with the revisions, as per the requirements of paragraph 147. The monitoring team will report on these policies during its second monitoring report.

Relative draft policies reviewed by the monitoring team (Order 4-12 K-9 Unit and Procedural Order 2-45 Use of Canine (June 22, 2015)) appear to be silent on the use of police canines in crowd control situations.

Frankly, the existence of multiple, inconsistent versions dealing with the same subject suggests that APD’s policy development process is in general disarray. There is little conformity to standard policy drafting conventions, such as clearly marking each version as a DRAFT, including a current date to facilitate tracking, indicating the total number of pages, and noting the source (either a person or unit). In addition, major problems with organization, content, and draftsmanship plague the review and approval process. If the current process is allowed to continue, it stands to delay primary compliance and hinder the design of policy-based training programs to implement critical project requirements and achieve secondary compliance. The monitoring team will report on these policies during its second monitoring report.

It is unclear if any of the draft versions have taken effect. None have been reviewed and approved by the independent monitor or DOJ. Several of the

orders listed are clearly no longer in effect. In this respect, APD's official web site was last updated in August 2014; thus, some of the policies listed may no longer be current or even in effect. In one instance, we found that the same index number had been assigned to two different policies, though at different organizational levels, according to the web site.

Results

Given the contradictions in APD's crowd control policies at different levels of the organization, and the internal inconsistencies evident in the policy process for this topic, the agency currently is judged not to be in compliance with this paragraph, although the final policy is not yet due.

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.27 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 General Order 1-46 "Emergency Response Team (ERT)" dated January 3, 2014 and found that it includes no provision for mandatory after-action reviews following deployments in crowd control situations. There is no indication that this policy is under revision to include the after-action review requirement. The monitoring team also reviewed Field Services Bureau Order 3-9 "Response to Demonstrations" dated July 8, 2015. The order provided was only a single page, but it is unclear if more exists. The page provided no mandatory requirement for after-action reviews. This order also has not yet been reviewed and approved by the monitoring team and DOJ. The monitoring team will report on these policies during its second monitoring report.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.28 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.

Methodology

The monitoring team's original review was based, for the most part, on policy orders that were dated before July 2, 2015, when APD staff apparently completed the second draft of Procedural Order 2-52 Use of Force. The second draft now appears to have incorporated most of the revisions and enhancements recommended in the DOJ and monitoring team reviews of the first draft. As a result most of the monitoring team's earlier findings and recommendations are now dated and don't take into account the progress that APD has made in the second draft. Accordingly, the monitoring team has dropped its original responses to all but Paragraph 45 and will proceed with a timely review of the second draft to provide updated findings and recommendation to APD, which should enable the Department to achieve compliance.

Because the second draft was not submitted to the monitoring team until September 2, 2015, the monitoring team has had insufficient time to conduct an in-depth review during this report period. The monitoring team will report on these policies during its second monitoring report. This delay is unavoidable because draft Procedural Order 2-52 contains extensive procedures for force reporting. The monitoring team's intent is to get feedback to the Parties as soon as practicable, so that APD can begin adapting its policy-training-supervision-discipline continuum accordingly.

APD is not yet in compliance with paragraph 41 as of this date, although it is not yet due.

Results

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

Operational: **Not Yet Due**

4.7.29 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 did not receive, in a timely fashion, policy revisions developed by the APD that would allow an assessment of this paragraph.

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 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

The monitoring team requested APD files on 16 randomly selected use of force incidents from the 50 such incidents occurring and reported by APD during the four months comprising the first reporting period (February-May, 2015). These data requests comprised a 32% sample, and included a request for all videos captured by officers' On-Body Recording Devices (OBRD), as well as for supporting data such as arrest reports, use of force

reports, written supervisory reviews of the use of force (if any) and other supporting documentation. APD responded with two "sets" of data and video. The first wave consisted of approximately 20 percent of the available OBRD videos. The monitoring team's second request for OBRD videos resulted in an 8-fold increase in the number of supplied videos, again, arriving too late to allow a complete review and analysis in time for full inclusion in the monitoring report.

As a result, the monitoring team is unable to report full results of the OBRD review for the first reporting period.

Results

None of the videos that could be reviewed and analyzed by the monitoring team indicated an injury to a suspect that was not reported. However, the issue of lack of full effective compliance with the monitoring team's data request--the arrival of "late data" led to difficulty monitoring this paragraph.

The reader should note that it is the monitoring team's opinion that none of these omissions were deliberate, but were the artifact of "new systems," and lack of familiarity with systems that led to a finding of not in compliance for this paragraph. These results do raise questions about the flexibility and utility of the APD's video management system, its ability to index and retrieve salient video, and the significant increase in sergeants' time that will need to be committed to effective video review if the OBRDs are to be an effective supervisory and management mechanism.

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

4.7.31 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

Information regarding the APD's current version of its Use of Force policy cannot be compiled, as the revised draft policy was not submitted in time to allow the monitoring team to review, annotate, suggest changes, staff, proof and return to APD in time to be included in this report.

Results

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

4.7.32 Compliance with Paragraph 44: Medical Services and Force Injuries

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

The monitoring team requested APD files on 16 randomly selected use of force incidents from the 50 such incidents occurring and reported by APD during the four months comprising the first reporting period (February-May, 2015). These data requests comprised a 32% sample, and included a request for all videos captured by officers' On-Body Recording Devices, as well as for supporting data such as arrest reports, use of force reports, written supervisory reviews of the use of force (if any) and other supporting documentation. APD responded with two "sets" of data and video. The first wave consisted of approximately 20 percent of the available OBRD videos. The monitoring team's second request for OBRD videos resulted in an 8-fold increase in the number of supplied videos, again, arriving too late to allow a complete review and analysis in time for full inclusion in the monitoring report.

As a result, the monitoring team is unable to report full results of the OBRD review for the first reporting period.

Results

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.

Methodology

The monitoring team conducted a review of information from 16 Supervisory Force Investigations during the first reporting period. Based on APD records, APD officers reported 50 cases of uses of force that, by the requirements of the Agreement, required a supervisory review. These 50 cases involved 69 officers. The monitoring team selected a stratified random sample of 16 of these 50 incidents, ensuring that the sample included various types of use of force. The APD's initial response to the request for records of the 16 randomly selected cases resulted in submissions that appeared to be problematic to the monitoring team. To be certain of having all the required information to make an assessment of this (and other) paragraphs, the monitoring team made a second request to the department, which resulted in a substantial increase in the numbers of videos provided in response to the request. Those videos arrived too late to allow a full review. The results of the team's limited review are based on a careful review of the original submission (and because of the late discovery of additional videos, a preliminary assessment of the additional supporting documentation) in order to determine whether sufficient information existed to complete a meaningful assessment of the Department's supervisory force investigations. The team found it possible to develop a meaningful review of only two such cases, **both of which report incidents that took place prior to the agency's development and training of revised use of force policies and procedures.**

The first case, involved a deployment of an Electronic Control Weapon (ECW) against a suspect in a domestic violence incident. In that incident, which took place in a darkened rear yard, and involved a fleeing suspect, the suspect was struck in the back and the head by the officer's ECW, resulting in immediate control. Intentional use of an ECW targeting a suspect's head is expressly prohibited by APD policy (SOP 2-53, dated September 2, 2015). This issue was neither identified nor resolved by the (sergeant) investigator, as policy development and training at APD had yet to "catch up" with stipulations of the CASA. Subsequent reviews up the chain of command also failed to identify the head-strike as an issue and return the investigation for further work as policy development and training at APD had yet to "catch up" with stipulations of the

CASA. The monitoring team does not conclude that the head-strike was intentional or unintentional. That will be the role of the primary investigator and chain of command supplemental reviews once the APD's policy development and training at APD "catches up" with stipulations of the CASA. .

The second incident reviewed by the monitoring team was similar. In this incident APD officers were dispatched to a reported armed robbery where a basic physical description of the subject was provided. An APD lieutenant reported to the area and encountered a male suspect who matched the basic description that was given across police radio. The lieutenant initiated contact, and eventually the male subject began to run across a busy street with the lieutenant pursuing on foot. The chase continued along residential streets and into an open lot between two residential yards where the subject stopped. Numerous orders were given to the subject to get onto the ground, but he refused to comply and even advanced toward the lieutenant. The subject was warned he would be "Tased" if he did not comply, and the lieutenant attempted to maintain his distance. The lieutenant maintained composure and was professional with his actions to this point, and when the subject continued to move toward him he deployed his Taser. The subject attempted to pull off the wires and started moving away and it was at that time a second ECW cycle was employed. Two officers arrived to assist and engaged the subject by giving commands to get onto the ground, which were not followed. While attempting to gain custody of the subject, one of the officers deployed two (2) additional ECW cycles. Eventually, a fourth officer arrived on the scene and assisted with handcuffing the subject.

In addition to the two cases documented above, the monitoring team was able to make a number of general observations concerning the quality of supervisory investigations and the performance of involved officers. These included:

1. A small percentage of officers used "police-speak" or boilerplate language to describe incidents, a violation of Paragraph 42 of the CASA. For instance, one officer used the phrase "I felt it necessary to deploy my lethal force in preparation...." He was in fact simply un-holstering his firearm because of the threat he saw developing. Another officer noted that he used the "technique of the mandibular angle."
2. Few supervisors used their lapel video to record witness statements. In one instance, the supervisor simply handed a statement form to the suspect and told her to drop it off at the area station. Her statement was not found in the investigative file. This was a lost opportunity to create a clear, irrefutable record of her involvement.

3. Few supervisors analyzed incidents to identify specific behaviors that could be classified as attempts at de-escalation or assess whether officers used the minimum amount of force necessary. Both assessments are required by Paragraph 53, sub-task d) in the CASA and in newly drafted SOP 2-52-7, Sub-section A. 4. d. (pending the monitor's and DOJ's review and final approval). These should be major areas of emphasis in any training on conducting supervisory force investigations.
4. The "blank sheet" approach to both supervisors' and reviewers' narratives is seriously deficient. It leads to major inconsistencies and wide variations in the quality of these reports. For instance, presence or absence of various "Graham" factors is an important aspect of any force investigation. Specific headings should be provided to structure the reporting on critical issues after the investigator provides a brief synopsis of the incident. Additional headings should include Encounter Dynamics, De-escalation (if feasible), Video Evidence (see the following item on this issue), Warnings (if feasible), Risk Management, and Tactics.
5. The existence of video is indicated by a relatively small, obscure check box on the Use of Force Data Report. Hence, it is not immediately clear what video evidence should or does exist. Because of the emphasis placed on the use of video by APD officers, this topic should be featured far more prominently on the form. Further, given the APD's response to the monitoring team's request for related video, it is clear to the monitoring team that, at this point in time, the ability to search for, locate and organize video associated with a given incident is limited.
6. Several investigators prepared their reports in small fonts, single-spaced, and organized in a single multi-page paragraph, which made review extremely difficult. While this appears to be a monitoring team-related issue, the same report format that makes assessment of an incident for the monitoring team would also make it difficult for supervisors tasked with review, assessment and follow-up on use of force-related incidents at APD.
7. In one instance, an officer's abrasive demeanor was obvious in the related video. This issue was identified in the subsequent reviews by APD supervisors, and resulted in remediation (it's unclear if the remediation was commensurate with the officer's performance history). **This truly represents the most effective type of early intervention.**

The reader should note that the events described above were observed prior to completion of the APD's pending Use of Force policy (and

associated policy) concerning operation of officers' OBRDs. The same holds true for training in the new policy. In short, what the monitoring team reviewed this reporting period was behavior not guided by new policy or training required by the CASA. In the opinion of the monitor, this underscores the need for immediate action by APD in completing a meaningful and acceptable use of force policy and related training for officers, supervisors and managers regarding that (and related) policy.

Results

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

4.7.34 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 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 Compliance with Paragraph 49

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

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

Results

The agency's policies provided to the monitoring team to this point are not sufficiently responsive to the use of force and to Internal Affairs Bureau (IAB) responsibilities related to use of force investigations. Additional policy product on this topic was not submitted to the monitor in sufficient time for to allow assessment of their acceptability prior to reporting deadlines for the first monitoring report.

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

4.7.37 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 APD policy on use of force and supervision and investigation of use of force incidents could be commented on by the monitoring team

Results

The agency's policies provided to the monitoring team to this point are not sufficiently responsive to the use of force and to Internal Affairs Bureau (IAB) responsibilities related to use of force investigations. Additional policy product on this topic was not submitted to the monitor in sufficient time for to allow assessment of their acceptability prior to reporting deadlines for the first monitoring report.

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

Operational: **Not Yet Due**

4.7.38 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.

Results

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

4.7.39 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

Members of the monitoring team reviewed APD use of force reports provided in response to their request for a stratified random sample of the use of force reports filed by APD personnel during the reporting period. Based on the team's experience in reviewing use of force reports and the expected volume of officers involved given the nature of the force reports provided, it was clear to the monitoring team that they had not been provided a complete sample in response to the first request for OBRD video. A second request was made, resulting in an 8-fold increase in the number of OBRD videos located by the APD. A review of accessible OBRD videos yielded a sufficient number of flaws to give the members of the monitoring team serious concerns about the training, supervisory, and audit processes implemented by the APD to control and utilize the information available from the OBRD system.

Results

This paragraph, by its nature, is a complex behavioral issue requiring, in the opinion of the monitoring team, a fair degree of experience, training, organization and supervision before supervisory personnel can become accustomed to adhering to all of its provisions. Given the difficulty obtaining OBRD video, described above, it is clear that work remains to be done in several areas to come into compliance with this task: handling, processing, storage and

retrieval systems need to be refined and improved; training of supervisors in policy relative to policy controlling officer use of force needs to be improved, training of supervisors regarding OBRD review needs improvement; a system of oversight of OBRD video and video review needs to be implemented and refined. The APD is not in compliance with this task at this time, and completion of this task is not yet due.

Results

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

4.7.40 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

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.

Results

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

4.7.41 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.

Results

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 proceeding). In fact, the monitoring team is of the opinion that the current use of force system is too cumbersome to allow meaningful managerial review (see the comment above about unique incident identifiers that can be used to recover all OBRD videos for a given incident).

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.42 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.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.43 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

Unable to evaluate

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 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 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

None of the use of force events reviewed by the monitoring team this reporting period indicated that the Chief of Police intervened by re-assigning a force investigation to another supervisor for further investigation. The monitoring team was unable to evaluate this paragraph this reporting period, but will continue to review use of force investigations in which the Chief has exercised this authority.

Results

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

4.7.46 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. None of the use of force events reviewed by the monitoring team this reporting period indicated that the APD found, during the supervisory investigation, that a use of force violated policy. APD's revised policy on use of force and supervisory review of reports of use of force were pending at the time of this review. Thus supervisory response to this paragraph could not be evaluated at this time.

Results

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

4.7.47 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 under significant revision by the APD. As a result, we have not addressed the "policy" aspect of this paragraph for the first monitoring report. That review will be conducted as part of the second monitoring report.

Results

The IA policy, Use of Force policy and other related policies, based on the reviews by the monitoring team, are incomplete at this time, and require further work prior to being approved by the monitoring team.

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

4.7.48 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 has reviewed and commented upon existing drafts of the Internal Affairs policy and related policies. At this point, the team has not

approved the IA policy, as it is not responsive to requirements established by the CASA. In addition, the team finds the policy 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 process that results in clear, concise, "trainable" and enforceable policy.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.49 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 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 has reviewed and commented upon existing drafts of the Internal Affairs policy and related policies. At this point, the team has not approved the IA policy, as it is not responsive to requirements established by the CASA. In addition, the team finds the policy to be difficult to read and understand, and by extension difficult to train. Absent sufficient policy, staffing is a moot question. The monitoring team will continue to work with the Parties to develop an acceptable policy formation process that results in clear, concise, "trainable" and enforceable policy.

Results

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

4.7.51 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

Members of the monitoring team reviewed IA policies and procedures, training, and cross-linkages with the Force Investigation Teams (FIT) and Critical Intervention Review Teams (CIRT). They were also advised that the APD has been in close contact with the Las Vegas Metropolitan Police Department and has had the benefit of their experiences in writing, training and implementing some of the better IA/Use of Force policies currently in practice in the United States. Unfortunately, the Use of Force policies, necessary for development, training and implementation of these state of the art practices within APD have yet to be reasonably translated (through training and supervision) to APD patrol, specialized unit, and IAB functions, because they have not yet been written by the APD in a form that can be approved by the monitoring team. Training of personnel before execution and promulgation of effective (and approved-by-the-monitoring-team and DOJ) policies is a problematic practice. This is exactly why the monitoring team suggested to APD that some training be postponed until relevant policy issues are ironed out, and training needs assessments are articulated.

Results

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

4.7.52 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

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 approval will be required to meet compliance with this paragraph.

Results

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

4.7.53 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.

Results

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

4.7.54 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

Members of the monitoring team reviewed a randomly selected sample of 16 use of force incidents for indications of any uses of force indicating apparent criminal conduct. No uses of force by APD officers were noted which rose to the level of criminal conduct. Importantly, however, existing (in effect) use of force policies fail to stipulate the requirement for the Chief to notify and consult with the requisite persons regarding use of force indicating use of force which may indicate apparent criminal conduct by an officer.

Results

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

4.7.55 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

Members of the monitoring team reviewed a randomly selected sample of incidents for indications of any case that was selected to institute a criminal investigation. None of the selected cases involved an investigation that should have resulted in criminal charges or should have resulted in compelled statements.

Results

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

4.7.56 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

Members of the monitoring team reviewed a randomly selected sample of incidents for indications of any case that was required by policy to be classified as a use of serious force, and, thus required to be assigned to IAB for investigation. Further, critical

elements of the policy continuum are unenforceable until clear, meaningful, and enforceable policy is promulgated by the APD controlling critical issues such as those articulated in this paragraph.

Results

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

4.7.57 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

Members of the monitoring team reviewed a randomly selected sample of incidents for indications of any case that was required by policy to be classified as a use of serious force, and, thus required to be assigned to IAB for investigation. Further, critical elements of the policy continuum are unenforceable until clear, meaningful, and enforceable policy is promulgated by the APD controlling critical issues such as those articulated in this paragraph.

Results

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

4.7.58 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

Members of the monitoring team reviewed a randomly selected sample of incidents for indications of any case that was required by policy to be classified as a use of serious force, and, thus required to be assigned to IAB for investigation. Further, critical elements of the policy continuum are unenforceable until clear, meaningful, and enforceable policy is promulgated by the APD controlling critical issues such as those articulated in this paragraph.

Results

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

4.7.59 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

Members of the monitoring team reviewed a randomly selected sample of incidents for indications of any case that was required by policy to be classified as a use of serious force, and, thus required to be assigned to IAB for investigation. Further, critical elements of the policy continuum are unenforceable until clear, meaningful, and enforceable policy is promulgated by the APD controlling critical issues such as those articulated in this paragraph.

Results

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

Members of the monitoring team reviewed a randomly selected sample of incidents for indications of any case that was required by policy to be classified as a use of serious force, and, thus required to be assigned to IAB for investigation. Further, critical elements of the policy continuum are unenforceable until clear, meaningful, and enforceable policy is promulgated by the APD controlling critical issues such as those articulated in this paragraph.

Results

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

4.7.61 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

Members of the monitoring team reviewed a randomly selected sample of incidents for indications of any case that was required by policy to be classified as a use of serious force, and, thus required to be assigned to IAB for investigation. Further, critical elements of the policy continuum are unenforceable until clear, meaningful, and enforceable policy is promulgated by the APD controlling critical issues such as those articulated in this paragraph.

Results

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

4.7.62 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

Members of the monitoring team reviewed a randomly selected sample of incidents for indications of any case that was required by policy to be classified as a use of serious force, and, thus required to be assigned to IAB for investigation. Further, critical elements of the policy continuum are unenforceable until clear, meaningful, and enforceable policy is promulgated by the APD controlling critical issues such as those articulated in this paragraph.

Results

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

4.7.63 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.

No actions by the Chief of Police resulting in referrals to the MATF or the FBI were noted this reporting period.

Results

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

4.7.64 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

Use of Force incidents reviewed by the monitoring team for this reporting period did not result in completed IAB investigations. Thus, the monitoring team was unable to assess compliance with the CASA at this time. The team will continued to monitor APD IAB work product to determine whether or the Chief of Police utilizes this avenue for resolving use of force investigations. The monitoring team noted that the extant policy on Internal Affairs does not note this provision; however, IAB policy is currently under revision. The team would expect this permissive provision to be reflected in any new policy submissions.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.65 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

Policies regarding the use of the Force Review Board are pending, and cannot be evaluated until APD completes policy development and other paragraphs of this section of the CASA are brought in line with articulated requirements.

Results

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

4.7.66 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

The monitoring team requested information from APD that would demonstrate their compliance with this paragraph. In response to that request APD produced four (4) specific pages extracted from their organization-wide 2014 Annual Report. APD's current practice is to include operational statistics, including uses of force, in its Annual Report. The 2014 Report, for example, includes statistics, principally in graphic form, on service calls, crime (9-year span), arrests, use of force incidents, incident demographics, types of force incidents, firearms discharges, and SWAT deployments.

For the most part, little in-depth analysis accompanies the material displayed in the Annual Report, though some gross multi-year trends are obvious in a number of the graphics. It is clear that APD has considerable on-point statistical data that will serve as a foundation for building a system that eventually will enable it to achieve compliance. The next step for the agency is to not only compile aggregate data on organizational-wide and officer uses of force, in specific response to the requirements of this task, but to analyze it to determine what all the information means. Collecting and reporting data have certain commonalities with analysis, but it's the latter that will provide the most benefit to APD supervisors and commanders. It is in the subtle differences that APD will distinguish itself as an organization that not only collects data for statistical purposes, but also finds the obvious and hidden meanings within it. Analysis will provide a basis for policy and training development and appropriate foundations for accountability. An intelligence-led decision making process will provide long-term benefits to the identification and/or avoidance of unwanted trends.

APD has implemented an innovative and comprehensive data collection and reporting system plan that will enable it to comply with the requirements of this paragraph. The present system lacks the necessary data fields to do so. To date, insufficient policies or procedures are in place to guide the development of this system, which, in effect means that the *system* may wind up guiding the policy and procedures. The monitoring team stands ready to consult with the APD to ensure the system as designed will meet the requirements of paragraph 79.

Results

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

4.7.67 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 last 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 November 2015. We learned that supervisory use of force investigations are 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.

Results

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

4.7.68 Compliance with Paragraph 81: MATF Participation by APD

Paragraph 81 stipulates that:

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 Agreement.

Methodology

Members of the monitoring team reviewed archival data kept in the normal course of business, indicating APD is a signatory to the current Memorandum of Understanding (MOU) that creates a Multi-Agency Task Force (MATF) to conduct specific types of investigations. The scope of work includes officer-involved shootings, other serious uses of force, and in-custody deaths. Other signatories are the New Mexico Department of Public Safety, the Bernalillo County Sheriff's Office, and the Rio Rancho Police Department. The MOU sets forth detailed policies and procedures for MATF operations. APD formally joined the MATF on September 22, 2014. There is no provision regarding training for MATF personnel in the Memorandum of Understanding (MOU) governing the MATF; however, given the performance of APD personnel in particular and the MATF in general, it appears that the personnel assigned to the MATF are familiar with their duties and expectations. The monitoring team will continue to monitor MATF activities, and, it may be that staff familiarity with MATF policy and practice is sufficient to allow this in-service training to be considered secondary compliance.

Results

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

4.7.69 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

Members of the monitoring team reviewed the requirements of the CASA and compared the operational artifacts generated by the MATF in its normal course of daily business. There is no provision regarding training for MATF personnel in the Memorandum of Understanding (MOU) creating the MATF; however, given the performance of APD personnel in particular and the MATF in general, it appears that the personnel assigned to the MATF are familiar with their duties and expectations. The monitoring team will continue to monitor MATF activities, and, it may be that staff familiarity with MATF policy and practice is sufficient to allow this in-service training to be considered secondary compliance.

Results

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

4.7.70 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.

Methodology

Members of the monitoring team reviewed the current MATF MOU and found that it includes provisions for the public release of information, although the release of video recordings is not mentioned specifically. The MOU places final decision authority for the release of any information with the Head of the Lead Agency. APD will need to ensure that its own policies for the operation of the MOU empowering the MATF clearly state the processes by which and the situations under which video recordings will be released. For the purposes of this paragraph, that guidance should be reduced to writing.

Results

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

4.7.71 Compliance with Paragraph 84: Briefings with MATF

Paragraph 84 stipulates that:

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

Methodology

Members of the monitoring team reviewed "course of business" records for this paragraph, and found that APD continues to be an active member of the MATF, and that the policy of the MATF requires that participating agencies participate fully in all activities of the Task Force, including regular briefing. At this point, the monitoring team has no access to MATF records that would substantiate APD's full participation. Issues of secondary and

operational compliance will be followed up during upcoming monitoring team activities.

Results

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

4.7.72 Compliance with Paragraph 85: Expiration of MOU re MATF

Paragraph 85 stipulates that:

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

Members of the monitoring team reviewed the MATF MOU and found that while the MOU remains in force, that document allows a specific agency to withdraw at any time. Further, this paragraph is "contingent," and can only be monitored if APD withdraws from the MATF. All elements of compliance are therefore considered met until such time that the APD were to withdraw from the MATF or the MATF were to be disbanded.

Results

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

4.7.73 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

The monitoring team has been working closely with APD to facilitate the effective generation of numerous policies directly related to applicable sections of the CASA. To date, progress has been made; however substantial work remains to be done relative to use of force processes.

Results

As of the date of this report, APD has not developed an acceptable use of force policy.

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

4.7.74 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

Members of the monitoring team have reviewed planned APD policy and training processes regarding use of force in all its aspects. The team's findings include the following.

While most of the listed subjects are included in APD's current force training program in differing degrees and with varying emphases, there are significant revisions and enhancements required by the CASA. Of particular importance are: the emphasis upon de-escalation skills, APD's higher standard governing the use of force, enhanced use of force reporting and investigation, the management of encounters with those in crisis, and incident management principles. As APD shifts its emphasis from policy development to the design of training curricula to link policy to field practice, the monitoring team will conduct in-depth audits of any proposed training material to ensure that it fulfills specific force-related requirements of the CASA. The monitoring team will also work closely with APD SMEs by providing technical assistance on different strategies and techniques to transform policy into high-quality, relevant, and practical training.

In order to come into compliance with the CASA, and the standard training protocols established in the field of policing, training development should also contemplate specific comments and feedback that is provided through the periodic reports that are prepared by the monitoring team. It remains to be demonstrated by APD that specific, relevant organizational entities (i.e. FRB/CIRT) have established business processes and feedback loops that result in training development or revisions. In future site visits those type of training programs will be requested for review.

The rubric established by the monitoring team, and reflected by standard practice in the field, is that sound policy development must occur first to create sound training platforms. As noted in this report, APD is actively engaged in the important function of policy development.

Results

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

4.7.75 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

Members of the monitoring team have consulted with the APD concerning training modalities that, the monitoring team considers, would be effective, and meet nationally accepted standards and practices. The monitoring has offered to have a "conversation" with command staff to identify elements of nationally accepted training practice that can be adapted by APD to ensure that training is "on policy," and consistent with nationally accepted standards regarding training process. APD has created an omnibus class schedule to reflect all of the training requirements required in the CASA. As this training comes on line, the monitoring team will conduct real-time audits to ensure that all force-related training complies with CASA requirements and national standards for police training and practice. The monitor notes that **part** of the delay in bringing APD training practices "on-line" is attributable to the monitor's decision to require conformance with national practices **prior** to initiating training, and thus avoid the need to repeat training designed, planned, and "calendared" prior to the monitor's arrival.

Results

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

4.7.76 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

Members of the monitoring team reviewed existing and planned Firearms Training practices. The monitoring team reviewed APD Procedural Order 2-22 Firearms and Ammunition Authorization (December 11, 2014) and determined that it provides for annual qualification in “any weapon carried on duty, off duty, or as backup”, requires qualification under low-light conditions, and provides for timely, definitive remediation in the event of qualification failures.

The regular use of scenario-based training under authentic conditions should be required at least annually (more frequently if feasible). Such training should stress decision-making, continuous threat assessment, and tactical regrouping to accommodate changed circumstances. It should also stress sound tactical decision-making in the time preceding an encounter to emphasize de-escalation and to prevent instances of “officer-created danger” or reckless provocation.

Real time audits of training programs will be accomplished in future monitoring visits.

APD is approaching primary compliance with the requirements in Paragraph 89, though certain provisions should be made more explicit in its firearm policy and training program. This includes force decision-making, self-management strategies and techniques while under stress, continuous threat awareness, tactical “smarts”, de-escalation, and situation awareness.

Results

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

4.7.77 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.

The monitoring team finds this to be a statement of high-level intent, consistent with an effective statement of policy; however, policy must be accompanied by procedures designed to effectively implement the intended policy. There are no specific paragraphs of "procedure" associated with this policy statement, based on what has been provided to date.

The APD **has** taken specific steps with its respect to its tactical units, including discontinuation of the use of Department of Energy curricula for training. As a result of foregoing these types of training facilities and practices,

APD has formally disposed of several military surplus vehicles that were not particularly well suited for civilian police operations, and has repainted the remaining, better-suited vehicles blue instead of military brown and has signage on the vehicles indicating "rescue" to distinguish them from military vehicles. Further, tactical team members have completed the department's 40-hour Critical Incident Team course, which provides an emphasis on **de-escalation** techniques. Further, it appears that the Unit Commander of the tactical services group has instituted a policy prohibition on using police canines for crowd control, although this prohibition is not yet part of official APD department wide policy.

APD tactical have also reportedly incorporated tactical scenarios in its on-going training that emphasize de-escalation and the use of minimum amount of force necessary. A risk assessment matrix has been developed to assist supervisors and commanders in the field in deciding whether a tactical activation is justified. A policy on non-threatening barricaded suspects has been developed and implemented, requiring a careful risk assessment prior to executing or continuing tactical response

Results

While APD SWAT have operationally changed a great deal of their doctrine to reflect the requirements of the policy statement responsive to this paragraph, resulting operational procedures have yet to be promulgated by the agency and

provided to the monitor for review. The monitoring team applauds SWAT for taking the lead, and awaits final global APD written procedures responsive to the specific requirements of this paragraph reflective of K-9 and bomb squad/ Explosive Ordnance Disposal (EOD).

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.78 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

APD's Special Operations Division consists of the three distinct functional groups listed in Paragraph 91. The three units, according to policy, function as an integrated team, which is able to deploy special capabilities and resources in response to high-risk incidents. Draft Support Services Bureau Procedural Order 4-04 SWAT (revision date of February 12, 2015) establishes eligibility qualifications and training requirements for SWAT team members. Two related orders--- Procedural Order 4-03 Explosive Ordnance Disposal Unit (Bomb Squad) (undated) and Procedural Order 4-12 K-9 Unit (December 5, 2013) --- define similar requirements, but omit eligibility qualifications. It should be noted that the cited policies originated at different organizational levels and sources. APD Procedural Policy 2-45 Use of Canine Unit (June 22, 2015), for example, is an agency-wide policy, while Procedural Order 4-12 K-9 Unit (December 5, 2013) is a Bureau-level order. It is unknown how these localized policies are woven into the wider organizational policy development system, and whether these policies were ever vetted through the PPRB. However, the policies contain several appropriate and meaningful sections that are consistent with this standard.

More work will be required to ensure the policies are a part of a cohesive and comprehensive policy development system. As noted elsewhere in this report, the state of policy development within APD is, in general, problematic.

The monitoring team was provided with Department Personnel Circular 14-47, dated December 29, 2014, which is an announcement for positions within the APD SWAT Unit. The Circular lays out minimum qualifications, automatic

disqualifying factors, and requirements of the position within SWAT. This circular represents evidence of pre-established standards for selection to the SWAT Unit. Similar evidence must be provided for the K-9 and Bomb Squad/EOD. Then selection results will have to be reviewed along with appropriate training records

Results

While SWAT leads the way in compliance with the requirements of this paragraph, other tactical units will need to follow. Until such time as all specialized tactical units can point to good policy and effective operations based on that policy, compliance will be elusive.

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

4.7.79 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

The monitoring team learned that SWAT training encompassed all of these topics, but we were provided no COB documentation, with one exception, which was the New Mexico state-approved Tactical Operator's Course. The monitoring team reviewed that curriculum and supporting documents, and concluded that it did not address the requirements in Paragraph 92 adequately. The course appeared overly tactical, with particular emphasis upon dynamic entries. To an extent, those narrow foci are understandable in a basic SWAT course. If this course, however, is augmented by additional training that fills in these gaps (as we anticipate they will), strikes a crucial balance between the use of non-force and force options, and addresses critical requirements in the CASA, the overall training may be in compliance. To assess this, the monitoring team will meet with APD staff in its upcoming November visit to explore the full range of training provided to SWAT personnel, including supervisors and commanders, and assess the extent to which it fulfills CASA requirements and conforms to best practices in the field.

APD has created an omnibus class schedule to reflect all of the training

requirements required in the CASA. This schedule was approved by the monitor in September 3, 2015. As this training comes on line, the monitoring team will conduct real-time audits to ensure that all force-related training complies with CASA requirements and national police practice standards.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.80 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

Members of the monitoring team conducted a thorough review of tactical units training, command and control, containment, entry, apprehension and rescue functions. Current APD policy sets forth clearly defined missions and duties for specialized units in three separate orders: Bureau Procedural Order 4-04 SWAT (June 26, 2009), which is currently undergoing revision; Bureau Procedural Order 4-03 Explosive Ordinance Disposal Unit (Bomb Squad) (undated); and Bureau Procedural Order 4-12 K-9 Unit (December 5, 2013), which is also undergoing revision.

While each order provides detailed unit administrative and operational procedures, none explains clearly how APD's use of force policies apply to unit and division operations. This is critically important for several reasons. First, APD has agreed to a higher use of force standard in the CASA, which consists of two prongs---the Graham test of objective reasonableness and the standard of the minimum amount of force necessary. Second, APD has instituted major policy changes in force reporting, force investigations, and force oversight.

Once use of force policies are resolved from an organizational perspective, more localized policies such as those relating to SWAT, K-9 and EOD will have to incorporate the new standards relating to use of force, force reporting and force investigations. The mere fact that SWAT is operating under a procedural order dated back to 2009 is, in and of itself, problematic. 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 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

Members of the monitoring team reviewed APD records for artifacts related to Paragraph 94, such as policies, training documents, disciplinary action, etc. APD policies and procedures are compliant with the requirements in Paragraph 94, with one notable exception, which probably should be regarded as a training requirement:

The monitoring team found nothing in its review that addresses "...situations where an officer's view may be obstructed". (94.b) However, narrow tactical issues like this are seldom dealt with in policy documents. Instead, they are typically addressed in training syllabi and courses. We assume that this issue was flagged specifically in the course of the DOJ investigation as an important

operational issue. Hence, the monitoring team will follow up on this to when it audits SWAT training syllabi and courses in a future evaluation cycle. The monitoring team reviewed policies for SWAT, EOD and K-9. The SWAT policy is the most organized and comprehensive of the three policies, with substance that meets the general requirements of this paragraph. The monitoring team will re-interview the Unit Commander in its upcoming November visit to clarify policy development within other tactical units and will also clarify whether these requirements should be codified in an APD policy or a unit-level policy.

APD has created an omnibus class schedule to reflect all of the training requirements required in the CASA. As this training comes on line, the monitoring team will conduct real-time audits to ensure that all force-related training complies with CASA requirements and national police practice standards.

Results

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

4.7.82 Compliance with Paragraph 95: Annual Review of Tactical Policy

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

Members of the monitoring team reviewed policies related to this paragraph and the scheduled training responsive to the paragraph. The team also sketched a brief history of tactical units in APD so as to better understand the ethos of these critical organizational entities.

APD draft policy 4-12 K-9 Unit, as distinguished from APD SOP 2-45 Use of Canine Unit (also under revision and monitoring team review), does include such a provision. It calls for an annual meeting (in January) to review operations for the previous year and includes all of the topics listed in Paragraph 95. It is not clear if this provision applies to the entire Specialized Operations unit, or only to the Canine Unit. This is clearly a best practice and should be expanded to the entire unit if it hasn't been already, as required by the CASA. APD should also evaluate if a one-year interval between such comprehensive assessments is too

lengthy, given the need for regular timely feedback on high-risk operations.

APD has created an omnibus class schedule to reflect all of the training requirements required in the CASA. This schedule was approved by the monitor in a report titled Monitor's Assessment of 6-Month Submissions (September 3, 2015). As this training comes on line, the monitoring team will conduct real-time audits to ensure that all force-related training complies with CASA requirements and national police practice standards.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.83 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

Though the monitoring team reviewed a number of FRB SWAT After Action Reports (AAR) PowerPoint presentations, we did not receive any copies of the original After-Action Reports. We will request those in our upcoming November visit and review them to ensure correspondence between the FRB presentations and the AARs. Our review determined that SWAT supervisors and commanders are adhering to revised protocols that reduce the likelihood of fatal encounters. For example, the regular deployment of trained crisis-hostage negotiators resulted in numerous incidents being resolved without necessitating the use of force. Of the 18 activations that we reviewed, all involved violent crimes and 6 were resolved directly by crisis-hostage negotiators, who also played significant roles in most of the other incidents. Only one activation involved a warrant and that was an arrest warrant for a violent felon. In one case involving a suicidal subject SWAT personnel withdrew from the scene because no legal basis justified further action and the suicidal person posed no risk to others. By doing so, a potentially fatal encounter was avoided without creating significant risk to the general public.

APD SWAT used a full range of force options to handle incidents that compelled further action, including chemical agents, pole cameras, a camera-equipped

robot, and a police Rook (a small armored vehicle that enables officers to move closer for tactical reasons and provides a high margin of safety).

Skilled incident command played a large role in these successes (defined as the accomplishment of lawful police objectives using the minimum amount of force necessary). Coordinated decision-making was the norm and usually factored in both de-escalation considerations and, if feasible, using the minimum amount of force necessary.

Officers in several cases showed exceptional restraint in controlling extremely combative, violent felons.

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. The team's only findings of non-compliance are related to failure to provide for review the necessary after-action critiques, as called for by this paragraph.

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

4.7.84 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

The monitoring team reviewed Metro Division Order 4-04 SWAT (June 2, 2009), which is currently undergoing revision (the date of the revision draft is February 12, 2015) to comply with the requirements of the CASA. The draft order requires that a tactical plan be developed whenever feasible and expressly requires the preparation of a Tactical Operations Plan in cases involving dignitary protection. The order also requires formal briefing sessions, if feasible, prior to undertaking an operation.

Although the term operational planning is not used in the order, extensive guidance is provided that qualifies as operational planning in the monitoring

team's judgment. However, it is recommended that the subject headings "operational planning" and "conducting operational briefings" be added to the unit's training rotation, and they be dealt with thoroughly in the relevant sections.

The monitoring team also reviewed the K-9 (4-12) and EOD (4-03) policies, both of which fail to meet the requirements of this paragraph. While deployment requirements are documented, operational planning is not an element of the policy, nor is the requirement concerning team members' understanding of operational planning.

Results

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

4.7.85 Compliance with Paragraph 98: Tactical Uniform Requirements

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**

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

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

The monitoring team reviewed copies of 20 Special Operations Division Force Review Board presentations on SWAT activations (18) and K-9 incidents (2) for the designated four-month review cycle. As noted elsewhere, none of these were supported by copies of actual AARs, which meet the criterion of COB documentation. Though some of the presentations noted specific operational issues, the FRB post-presentation reports were minimalist in most respects. As such, they provided little substantive information for later reviewers. The monitoring team recommends that APD evaluate the need for greater detail in FRB reports, taking into account their purpose and potential future use in a variety of contexts, including legal and personnel proceedings.

Due to the mission of SWAT and K-9 specifically, special reference to the FRB within tactical policies would make clear the connection between their deployment and the oversight of the FRB. There are special paragraphs within the K-9 policy that speak to the use of a patrol dog as a force option, but other than a passing reference to 2-52 there is more work to be done to connect that policy to CASA requirements with respect to a K-9 as a force option.

Results

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

Operational: **Not Yet Due**

4.7.87 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

Members of the monitoring team reviewed personnel selection policy and procedure for the tactical unit staffing processes. APD SWAT has established broad eligibility criteria for unit members, team leaders, and supervisors. K-9 and Explosive Ordinance Disposal (EOD) have similar subjects, but omit eligibility criteria. Important criteria, such as disciplinary record, work record, complaints, and performance evaluations are included in the SWAT assessment process, but not included in EOD and K-9.

With respect to annual reviews of team members, the orders outlining EOD (4-03) and SWAT (4-04) policy and procedures calls for an "annual retention review" to ensure that members maintain proficiency and meet unit performance standards. APD should evaluate expanding this practice to all its specialized tactical units, in view of their regular involvement in high-risk operations. Not *all* APD special team members are treated similarly to EOD and SWAT. Policy and practice in response to this paragraph would benefit greatly from consistency across all specialized units.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.88 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:

Based upon the monitoring team's review of 18 FRB PowerPoint presentations on SWAT activations during the designated reporting period, it appears that APD specialized tactical units are operating in accordance with the functional requirements enumerated in Paragraph 101 (refer to the response under Paragraph 96 for fuller details). The monitoring team is particularly impressed with steps taken to assure rank parity and operational balance between negotiators and tactical specialist in unit operations, as this relationship often becomes asymmetric in police agencies to the detriment of the negotiation or non-force option.

The monitoring team reviewed Metro Division Order 4-04 SWAT (June 2, 2009), currently undergoing revision (February 12, 2015), and found that it covered the majority of functional topics listed in Paragraph 101, though different terminology is used in some instances. Thus, the monitoring team finds that APD is in compliance on the training content specified in the CASA for specialized tactical units. However, the order is not particularly well organized and commingles operational and administrative subjects throughout. The monitoring team will work with APD staff to improve the order's organization and achieve full compliance.

To assist supervisors and commanders in making requests for SWAT call-outs to assist in the service of arrest or search warrants, APD staff (authorship is not indicated on the form) developed a Search Warrant Matrix that includes multiple, weighted risk factors (this approach, incidentally, is regarded as an industry best practice). If the risks identified are sufficiently high, the related protocol recommends that SWAT be activated to handle the warrant service. The monitoring team recommends that APD develop a written policy to institutionalize use of the matrix, explain its methodology, and stress the risk assessment role of supervisors and commanders.

Results

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

4.7.89 Compliance with Paragraph 102: Canine 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 reviewed two Force Review Board PowerPoint presentations from the Special Operations Division on canine deployments. However, we did not receive copies of the actual after-action reports on which the PowerPoint presentations were based. The team also reviewed two draft SOPs that were submitted recently to the monitor for review. These were 2-45 Use of Canine Unit (August 6, 2015) and 4-12 K-9 Unit (undated). Though there was insufficient time to review and comment on them in depth, the monitoring team did a limited review to assess compliance with CASA canine-related requirements. We found that neither draft included provisions for completing post-deployment reviews, including the required content of such reviews. Because the content of the two drafts deal with the same subject, APD should consider merging the two documents. Without substantial COB documentation, the monitoring team is unable to conclude that APD conducts regular reviews of canine deployments. The monitoring team will follow up on this issue during its upcoming November visit.

Results

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

4.7.90 Compliance with Paragraph 103: Tracking Canine 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

While the monitoring team was assured in an interview with the Special Operations Division Command that the unit was adhering to the requirements in Paragraph 103, we were not provided any COB documentation to substantiate this. The monitoring team will follow up on this issue in its upcoming November visit.

Draft SOP 4-12 K-9 Unit (undated) does define the terms "ratios" and "calculation", both of which refer to the tracking required in this paragraph. In attempting to sort through the policy muddle, the monitoring team found five different policy drafts on the subject: SOP 2-45 Use of Canine Unit (June 22, 2015), SOP 2-45 Use of Canine Unit (August 6, 2015), SOP 4-12 K-9 Unit

(undated), SOP 2-45 Use of Canine Unit (April 27, 2015), and SOP 4-12 K-9 Unit (December 15, 2013). The monitoring team assumed that the order with the most recent date is the official working draft, but that requires confirmation.

There is also reportedly a PowerDMS presentation on the use of canines, but due to the early nature of the monitoring process, not all team members have access to PowerDMS in order to review data included there. The latest draft, which is undated, is far more extensive than the others. None address the issue of calculating bite ratios, the manner of reporting such information, or how the metric is to be used in the performance appraisal and management process. APD needs to reconcile the different drafts and merge them into a single directive on K-9 unit operations. The scope of the reconciliation should include review of any unit-level policies to ensure consistency and congruence. (If a single department SOP can address all of the requirements, there may be no need for a unit-level directive.)

The department's response to this issue is emblematic of its problems with policy in general. There appears to be no centralized "clearing house" for policy development, dissemination, revision, and assessment. This reigns as perhaps the most critical "missing piece" of the compliance puzzle at this time.

Results

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

4.7.91 Compliance with Paragraph 104: Tracking Canine 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:

The monitoring team requested but did not receive COB documents that would enable it to assess compliance with the requirements in Paragraph 104 in this reporting cycle. Canine bites are not listed as an EWS incident in Administrative Order 3-49 Early Warning System (6/19/13). Both of these facts are viewed as critical issues by monitoring team.

Results

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

4.7.92 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

The Special Investigations SOP 3-01 (dated January 20, 2015) specifically mandates that the information in this paragraph be tracked. It is worthy to note that it does not explicitly include wording concerning the analysis of information. It will be within the "what does this information mean?" analysis of information that commanders will find meaning and value toward the oversight of operations.

The monitoring team requested but did not receive COB documents that would enable it to assess compliance with Paragraph 105 in this reporting cycle.

Results

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

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

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 (January 20, 2015) and found that it appears to fulfill the requirements in Paragraph 106. This procedure has not yet been reviewed by DOJ. The order defines the mission and duties of each unit within the Division and incorporates by reference APD policies on the use of force. The order also mentions that all detectives assigned to the Division shall be issued an individual Unit Handbook that sets forth unit operational procedures, but the monitoring team did not have an opportunity to review the handbooks. Because these handbooks appear to be an especially sound approach to providing unit members detailed guidance on unit operations, the monitoring team will arrange to review them during its upcoming visit. 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: Protocols for High-Risk Situations

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

Administrative Procedure 3-01 Special Investigations Division (January 20, 2015) expressly prohibits Division members from providing tactical responses to situations requiring SWAT activation. The order also appears to fulfill the other requirements set forth in Paragraph 107. 3-01 specifically references the Search Warrant Matrix developed by Division staff, which is an excellent means of ensuring that this requirement is implemented in actual practice. Bureau and Divisional command staff should be commended for the initiative shown in the development and use of the Search Warrant Matrix to assess and manage high-risk tactical situations.

The monitoring team review also found that this particular APD order was generally well written, comprehensive, and organized well. It simply requires re-

formatting to make it consistent with other orders. This order has not yet been reviewed by DOJ.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.95 Compliance with Paragraph 108: Inspection of Specialized Units

Paragraph 108 is discussed in Section Three of the monitor's report.

4.7.96 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 will assess how this data is tracked and entered into APD's Early Intervention System during our meeting with the Division Commander in November.

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.97 Compliance with Paragraph 110: Minimize Use of Force with 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 first reporting period dates of February-May, 2015. None of the requisite policy documents were completed during the first reporting period. The monitoring team will continue to work with the APD to get workable, meaningful and effective policies developed for this task, and to generate meaningful training responsive to those policies.

Results

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

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

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 Parties request, with the monitor’s support, the deadline for this project to December 2, 2015. The monitoring team will evaluate this paragraph again for IMR-3.

Result

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

4.7.99 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

Members of the monitoring team met with members of the Mental Health Response Advisory Committee (MHRAC) in April, 2015. At that time, MHRAC had formed a formal committee, and decided on committee chair positions. APD has assigned staff to attend and participate in MHRAC committee meetings. These achievements were finalized in advance of the Court's revised deadlines for this component of the CASA.

The Committee composition is responsive to the requirements of Paragraph 112, and minutes of MHRAC meetings indicate that the Committee is responsive to its tasking, and APD support personnel are actively engaged and supportive. Based on review of minutes of the committee meetings, no specific training needs for Committee members have been identified or discussed. These goals were attained in advance of the operative deadlines.

Result

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

4.7.100 Compliance with Paragraph 113: MHRAC Provides Guidance to City

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

Members of the monitoring team met with members of the Mental Health Resource Advisory Committee (MHRAC) in April, 2015. At that time, MHRAC had formed a formal committee, and decided on committee chair positions. APD has assigned staff to attend and participate in MHRAC committee meetings. As these steps were preliminary, no progress had yet been made in meeting the "operational" goals articulated in this paragraph.

The Committee composition is responsive to the requirements of this paragraph, and minutes of MHRAC meetings indicate that the Committee is responsive to its tasking, and APD support personnel are actively engaged and supportive. Based on review of minutes of the committee meetings, no specific training needs for Committee members have been identified or discussed. These goals were attained in advance of the operative deadlines.

Result

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

4.7.101 Compliance with Paragraph 114 requires: 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

Based on discussions with the volunteer members of the MHRAC, the first few meetings were spent, understandably on logistics: meeting locations, subcommittee formation, website development, etc. No formal work product has been produced as of this report.

Results

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

4.7.102 Compliance with Paragraph 115: APD Provided 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

Members of the monitoring team met with the chairs of the MHRAC to discuss status, issues, support and other related issues. As this paragraph of the CASA is not yet due, findings are understandably sparse. The MHRAC is currently developing a new behavioral health-training curriculum, including scenario-based training. APD staff representatives with the MHRAC visited the Portland, OR police department, a recognized leader in policing with the mentally ill to gather information about Crisis Intervention Teams (CIT) and mental health training strategies.

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 Compliance with Paragraph 116: MHRAC Coordinates with Local Systems

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

Members of the monitoring staff met with the MHRAC to discuss and clarify status on this topic. At the time of that meeting, the MHRAC was still focused on initial start-up issues, and had not yet formally reached out to local behavioral health system.

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 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

Members of the monitoring team met with the MHRAC co-chair and members of the Crisis Intervention Unit to review progress. The team also reviewed CIU/COAST monthly reports for March and April, 2015. The monitoring team characterizes MHRAC progress as substantial. 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 Compliance with Paragraph 119⁵

Paragraph 119 stipulates:

⁵ No evaluation methodology was developed for paragraph 118, as it is not a "requirement" for APD or City action, but simply states facts.

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

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 and addressing mental health issues to discuss progress. During a partial-team site visit (August 19-22, 2015), members of the monitoring team again met with members of the Crisis Intervention Unit to discuss progress, and conducted a review of CIU/COAST Monthly reports for March and April, 2015.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.106 Compliance with Paragraph 120: Crisis Intervention Training

Paragraph 120 stipulates:

The behavioral health and crisis intervention training provided to all officers will continue to address field assessment and identification, suicide intervention, crisis de-escalation, scenario-based exercises, and community mental health resources. APD training shall include interaction with individuals with a mental illness and coordination with advocacy groups that protect the rights of individuals with disabilities or those who are chronically homeless. Additionally, the behavioral health and crisis intervention training will provide clear guidance as to when an officer may detain an individual solely because of his or her crisis and refer them for further services when needed.

Methodology

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 the second 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 March and April, 2015. The monitoring team is concerned about the quantity and quality of training provided by APD pursuant to this task. In the opinion of the monitoring team, the quantity and quality of scenario-based training is minimal, at best, and during this time-period, APD was "retooling" applicable policies, thus training "to policy" was not possible.

Results

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

4.7.107 Compliance with Paragraph 121: Training Tele-communicators

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 a 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 March and April, 2015.

Results

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

4.7.108 Compliance with Paragraph 122: Bi-Annual 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

Members of the monitoring team have reviewed APD's training development processes related to this requirement. No formal training has been provided responsive to this requirement as of the time the first monitoring report was completed and submitted to the Parties for review.

Results

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

4.7.109 Compliance with Paragraph 123: Crisis Intervention Certified Responders 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 first site visit (June 21-26, 2015), members of the monitoring team met with Crisis Intervention Unit personnel responsible for training and staffing to discuss progress. During a 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. Monitoring team members reviewed CIU/COAST Monthly reports March and April, 2015. Compliance with staffing factors cannot be assessed until the Weiss and Associates staffing study is complete.

Results

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

4.7.110 Compliance with Paragraph 124: Crisis Intervention 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

Records maintained by APD indicate that, as of the date of this report, 394 of 416 patrol officers at APD have been "trained and certified as CIT-capable." Members of the monitoring team have reviewed the training documentation for the 87 percent of officers who were trained by internal APD trainers. That documentation consists only of a collection of PowerPoint (or similar) slides. The support provided by APD of the training used to certify 87 percent of its CIT-capable officers falls far short of expected documentation, which ***should include*** the following:

- Needs assessment statements and data;
- 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, presentation development and execution, review of video presentations of effective similar programs, etc.
- Descriptions of assessment modalities, such as exams, presentations, development of problem-solving rubrics for situations commonly faced by CIT-capable officers; and
- Content absorption testing processes.

What was provided was a set of PowerPoint slides depicting a lecture. This is simply inadequate "proof of life" for a training process.

Results

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

4.7.111 Compliance with Paragraph 125: Crisis Intervention Training

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

Members of the monitoring team did not evaluate this component this reporting period, as no records were available regarding "recommendations" of officers to serve as crisis intervention responders.

Results

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

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

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

No deliverables are due as of yet for this paragraph, as it has an 18-month timeline.

Results

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

4.7.113 Compliance with Paragraph 127: Staffing of Crisis Intervention 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

No deliverables are due as of yet for this paragraph, as it has an 18-month timeline.

Results

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

4.7.114 Compliance with Paragraph 128: Responsibilities for 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." This task will be re-assessed during the next reporting period.

Results

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

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

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 were addressed. The system is still under development.

Results

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

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

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 met with APD personnel tasked with developing systems responsive to this task. APD has established a peer-to-peer relationship with members of the Portland Police Department (PPD) to explore behavioral health training techniques. Modalities developed at PPD, which have received national attention for their effectiveness, will be adapted to APD operations once the planning and development phases are completed. Further, APD is in the process of revising PO 20-13, "Response to the Mentally Ill/Suspected Mentally Ill and People in Crisis."

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

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

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

Members of the monitoring team met with members of the MHRAC and personnel tasked with this paragraph at APD to review their status and strategies regarding building compliance with Paragraph 131. The main focus of activity at this point is structuring a salient revision to existing policy, particularly PO 2-13, so that training of APD first-responders can begin. APD and MHRAC have made contact with appropriate personnel at UNM's Psychiatric Department to discuss and develop a working relationship between APD, MHRAC and UNM. At this point, APD needs to develop clear policy controlling this process, followed by training and supervision designed to achieve the implementation of the policy.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.118 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 enforcement encounters and to proactively work to connect these individuals with mental health service providers.

Methodology

Members of the monitoring team conducted "Ride-alongs" and one-on-one interviews with APD COAST and CIU personnel. These activities indicate that APD, through these units, continue to maintain regular contact with individuals known to them. Further, APD's CIU has begun conversations with UNM's Psychiatric Department to discuss community working relationships. Until such time as APD's relative policy regarding delivery of services to the mentally ill is completed, however, the APD is not in compliance. At this point, APD needs to develop clear policy controlling this process, followed by training and supervision designed to achieve the implementation of the policy.

Results

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

4.7.119 Compliance with Paragraph 133

Paragraph 133 stipulates:

COAST and CIU shall provide crisis prevention services and disposition and treatment options to chronically homeless individuals and individuals with a known mental illness who are at risk of experiencing a mental health crisis and assist with follow-up calls or visits.

Methodology

Members of the monitoring team conducted "Ride-alongs" and one-on-one interviews with APD COAST and CIU personnel, which indicate that APD, through these units, continue to maintain regular contact with individuals known to them. Further, APD's CIU has begun conversations with UNM's Psychiatric Department to discuss community working relationships. Until such time as APD's relative policy regarding delivery of services to the mentally ill is completed, however, the APD is not in compliance. At this point, APD needs to develop clear policy controlling this process, followed by training and supervision designed to achieve the implementation of the policy.

Results

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

4.7.120 Compliance with Paragraph 134: Referrals to COAST and CIU

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-along” and one-on-one communication with APD COAST and CIU personnel indicate that APD, through these units, continues to maintain regular contact with individuals known to them. Further, APD’s CIU has begun conversations with UNM’s Psychiatric Department to discuss community working relationships. Until such time as APD’s relative policy regarding delivery of services to the mentally ill is completed, however, the APD is not in compliance. At this point, APD needs to develop clear policy controlling this process, followed by training and supervision designed to achieve the implementation of the policy.

Results

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

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

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 reached out to Crisis Intervention Unit personnel responsible for outreach and case management to discuss progress. The team contacted community members and service providers to discuss collaborative opportunities. The staffing study, which is critical to this piece of analysis, was not yet complete during this reporting period. Further, members of

the monitoring team assessed MHRAC contributions to compliance with this paragraph. At this point, APD needs to develop clear policy controlling this process, followed by training and supervision designed to achieve the implementation of the policy.

Results

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

4.7.122 Compliance with Paragraph 136: Improving COAST/CIU 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 consulted members of COAST and CIU to assess their practices and policies and found that a final policy for CIU/COAST was still under development, and that staffing levels had not been finalized.

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 is required.

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

4.7.123 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 case loads;

- 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
- a brief narrative of the event (if not included in any other document)

Methodology

Members of the monitoring team reviewed COST and CIU policy and practice related to this requirement, and reviewed CIU/COAST monthly reports.

Results

Work has begun 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 Compliance with Paragraphs 138-161 Training

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 approach, 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 138-161 are classified as "pending" for the monitor's first report (IMR-1). 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.

4.7.124 Compliance with Paragraph 138-161 Training

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 monitoring team had several conversations with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed rules, regulations and orders containing policies related to the Internal Affairs (IA) process, reviewed other documents provided by the Albuquerque Police department (APD) and Civilian Police Oversight Agency (CPOA) relating to the IA process and disciplinary processes, and reviewed a random selection of investigations that were completed by Internal Affairs Bureau (IAB) and the CPOA during this monitoring period. Total IA and CPOA investigations reviewed (excluding Use of Force Investigations reported elsewhere) were twenty-four.

Results

This is the overarching paragraph pertaining to the IA function. Full compliance with this paragraph cannot be achieved until all paragraphs pertaining to the IAB and CPOA functions related to APD are in compliance.

- The monitoring team was impressed with the professionalism and cooperation of the IAB and CPOA personnel. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site showed that generally investigations were fully and fairly conducted and findings supported

by preponderance of the evidence, subject to more detailed comments in the paragraphs below.

- A Chart of Sanctions / Progressive Discipline Matrix has been established and is generally followed, subject to more detailed comments in the paragraphs below. Subjects of investigations were generally held accountable (fair and appropriate punishment that follows progressive disciplinary system was imposed), subject to more detailed comments in the paragraphs below.
- The monitoring team recommends an articulation of reasons in every instance where discipline imposed does not follow the disciplinary matrix or recommendations of investigative or reviewing authorities. 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.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.126 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

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 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, Status, AO 3-43 Comment). This policy will require revision and formal adoption before the APD will be in primary

compliance of this task. The monitoring team has not yet been provided with the policy making the failure to report or document alleged misconduct or criminal behavior a ground for discipline.

The monitoring team considers the "immediacy" of a supervisor's obligation 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.

Results

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

4.7.127 Compliance with Task 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 had several meetings during the site visit during our first site visit in June, 2015. The team met 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 Internal Affairs investigations that were completed during this monitoring period.

Items submitted by APD and CPOA responsive to this paragraph were reviewed by the monitor for sufficiency and conformance to the requirement of the paragraph. Items reviewed included APD Administrative order (Policy) 3-43 (draft), the CPOA Civilian Police Complaint Form, and supporting documents such as brochures (CPOA), posters (CPOA). The CPOA is currently developing written policy guidelines, as is the APD. The CPOA publication materials include posters, brochures, and complaint forms, all of which are acceptable to the monitoring team. CPOA posters and brochures list TTY (Teletypewriter) and the Internet as appropriate ways for the hearing impaired to interact with the Agency.

Both brochures and posters are available in English and Spanish. No APD forms were provided as support for these paragraphs.

The APD draft policy 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 are in draft form at the time of preparation of this document, and have not been reviewed by the monitor. Findings regarding related policies will be assessed by the monitor in the subsequent monitor's reports.

It is expected that during the next site visit, inspections will be conducted at appropriate government properties for complaint forms and informational materials. Brochures and websites were informative and user-friendly.

Results

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

4.7.128 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 task(s) included in this paragraph, and reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

Brochures were viewed and APD and CPOA websites were reviewed. The monitoring team expects that the next site visit inspections will be conducted at

appropriate government properties for complaint forms and informational materials. Brochures were informative and user-friendly as were APD and CPOA websites.

Results

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

4.7.129 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

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 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, "Status"). Once AO3-43 is revised and approved by the monitor, the APD will be in primary compliance with this task. During the next site visit, inspections will be conducted at appropriate government properties to view permanent placards with appropriate information describing the complaint process.

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.

Results

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

4.7.130 Compliance with Paragraph 167: Duty to Accept all Civilian 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

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. The team reviewed documents related to the Internal Affairs process, and reviewed a random selection of 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"). 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 viewed by the monitoring team. The revised complaints and information and instructions contained therein do not discourage civilians from submitting complaints and should not be construed to discourage the same.

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.

Results

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

4.7.131 Compliance with Paragraph 168: Requirement for 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 random selection 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, Status). Absent revision and formal adoption of AO 3-43, the APD will remain out of compliance on this task. Members of the monitoring team requested copies of complaint forms and informational materials in Spanish, and were provided same after the site visit and after initial development of the first report.

The monitoring team reviewed brochures and complaint forms. The APD and CPOA Websites were reviewed and the monitoring team found that informational material was posted in English and Spanish. During the next site visit inspections will be conducted at appropriate government properties for complaint forms and informational materials.

In the APD website, specifically Internal Affairs and Contact the Police windows, both lead to 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 Report Police Misconduct window and should be revised

Results

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

Operational: **Not Yet Due**

4.7.132 Compliance with Paragraph 169: Training on Civilian Complaint Process

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 random selection 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 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 monitoring team will review those data as they come available.

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

4.7.133 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 selection 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 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**

4.7.134 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

The monitoring team has not yet been provided 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 did not reveal any investigation dealing with the refusal to accept a misconduct complaint, the discouraging of filing one or the giving of false or misleading information about filing a misconduct complaint.

Results

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

4.7.135 Compliance with Paragraph 172: Acceptance of Anonymous and Third-Party 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 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 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. The 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**

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

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 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 timeliness of submitting complaints required by this paragraph is not a statistic that is separately tracked at the current time. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site revealed no violations of the policy required by this paragraph.

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

4.7.137 Compliance with Paragraph 174: Inclusion of Allegations of Misconduct by Civil or Criminal 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 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). 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.

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

4.7.138 Compliance with Paragraph 175: Tracking Allegations Made by Homeless or Those Who Have Mental Illness

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 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 Internal Affairs investigations that were completed during this monitoring period.

If a misconduct complaint involves an individual(s) who is homeless or has mental illness, the investigation notes these facts. 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.

Results

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

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

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 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 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, 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.

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, DOJ and the monitoring team to assess the "shall be provided to the complainant" portion of this requirement are as of this date, pending.

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 visit revealed that in all cases where 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**

4.7.140 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 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.

The monitoring team 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. 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.

The monitoring team was unable to determine whether the system was used for periodic assessment of compliance with APD policies and procedures and the CASA.

Results

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

4.7.141 Compliance with Paragraph 178: Supervisors to Provide Complaint Information to IAB

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

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. Review of randomly selected investigations by the monitoring team did not reveal any violations of this paragraph.

Results

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

4.7.142 Compliance with Paragraph 179: Civilian Complaints to be Referred to CPOA by IAB

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.

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

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

4.7.143 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

A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit showed that IAB handles internal misconduct complaints. The review of randomly selected IAB investigations showed that IAB determines whether the matter is handled by IAB or assigned to the appropriate supervisor for investigation. The review of randomly selected IAB investigations showed that the use of discretion in determining which matters are assigned to the appropriate supervisor and which matters are handled by IAB was appropriate.

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.

Results

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

4.7.144 Compliance with Paragraph 181: IAB Complaint 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

The monitoring team has not yet been provided 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 IAB.

The decision-making in determining where an internal complaint should be assigned is impacted by the current shortage of personnel in the IAB. A review of randomly selected IAB investigations by the monitoring team during this site visit showed that the use of discretion in determining which matters are assigned to the appropriate supervisor and which matters are handled by IAB was appropriate.

Results

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

4.7.145 Compliance with Paragraph 182: Prohibition from Self-Investigation of Use of Force by Supervisors

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 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 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). 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

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

4.7.146 Compliance with Paragraph 183: Investigations Thorough and 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 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 Internal Affairs Bureau and Civilian Police Oversight Agency 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. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit showed compliance with the tasks of this paragraph. Investigations reviewed were thorough in relation to the allegations and circumstances of the reviewed cases. Complainants were interviewed in person when available and the interviews were recorded.

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

4.7.147 Compliance with Paragraph 184: Complaint 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 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 Internal Affairs Bureau and Civilian Police Oversight Agency 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 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 showed that all findings and conclusions are documented in writing. Further, a review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit showed that the use of discretion in selecting matters for mediation was appropriate and had the agreement of the complainant. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit showed that the use of discretion in administratively closing certain matters was appropriate.

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

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

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 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 Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

The Collective Bargaining Agreement requires compliance with the policy of this paragraph. Policy mandating compliance with this paragraph is also contained in AO 3-43, currently under review.

A review of randomly selected IAB 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**

4.7.149 Compliance with Paragraph 186: Protocols to 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 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 Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

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 randomly selected IAB and CPOA investigations by the monitoring team during this monitoring period showed no cases where an APD employ refused to give a voluntary statement.

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

Operational: **Not Yet Due**

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

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 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 Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

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 randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed showed no cases where an APD employee was advised of Fifth Amendment rights by IAB or CPOA.

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

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

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 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 Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Policy mandating compliance with this paragraph is contained in AO 2-05 and 3-43, currently under review. It is expected that 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 investigations 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**

4.7.152 Compliance with Paragraph 189: Provision of Public 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 have seen no regulations or orders setting forth the requirements of this paragraph. A review of current and pending policies revealed no hampering or discouragement of obligation to provide a public safety statement regarding a work-related incident or activity.

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**

4.7.153 Compliance with Paragraph 190: Requirement to Consider 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 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.

A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed one case where the minor son of the complainant was not interviewed. As an eyewitness, it is assumed that he would have relevant evidence. The report indicated that attempts were made to reach him; however, it was not clear to the monitoring team that this witness was truly unavailable or why he was unavailable. The monitoring team would expect that where a relevant witness cannot be reached for an interview, a greater explanation of efforts to reach him and/or why he was unavailable would be given in future reports.

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.

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. The review indicated adequate articulation of reasonable grounds for credibility determinations.

Results

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

4.7.154 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

The Collective Bargaining Agreement, 20.1.16, requires compliance with the policy of this paragraph. Members of the monitoring have seen no other 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 two CPOA cases where discipline could not be imposed because of the failure to comply with time requirements. The monitoring team is concerned regarding the ability of the CPOA to make recommendations of discipline to the Chief within the time periods allowed for imposition of discipline.

Results

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

4.7.155 Compliance with Paragraph 192: Acceptable 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 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 Internal Affairs Bureau and Civilian Police Oversight Agency 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.

A review of randomly selected IAB 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 randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed that Findings were generally supported by preponderance of the evidence, except that the monitoring team disagreed with four (4) findings (e.g. unfounded instead of not sustained); however the resolution of no disciplinary action was warranted in these four instances.

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

4.7.156 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 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 revision and 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 did not reveal any cases where administratively closed complaints were reopened.

Results

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

4.7.157 Compliance with Paragraph 194: Assessing Compliance with 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

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 Internal Affairs Bureau and Civilian Police Oversight Agency 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 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 a standard form used in the investigations in compliance with this paragraph. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site showed that the judgment/discretion used to determine if an incident suggests measures called for in subparagraphs (a) and (b) of this paragraph to be appropriate.

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

Operational: **Not Yet Due**

4.7.158 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

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 Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

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 did not reveal any cases involving violations of the policies contained in this paragraph. A review of materials including complaint forms and websites did not reveal any discouragement of making a complaint or report of misconduct.

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

4.7.159 Compliance with Paragraph 196: Review of Anti-Retaliation Statements

Paragraph 196 is reported in Section Three of this report.

4.7.160 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 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 Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

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 did not reveal any cases implicating this paragraph.

Compliance

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.161 Compliance with Paragraph 198: Staffing Levels at IAB and CPOA

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

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 Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period, as well as the IAB Tentative Organizational Chart.

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 of IAB as shown in the Table of Organization is insufficient; currently there are four (4) Sergeant vacancies and two (2) Detective vacancies. The IAB staffing shortages necessitates the outsourcing of investigations to Area Commands, thereby losing the expertise of the IAB personnel and potentially impacting the consistency of investigations. The monitoring team views this as a most serious deficiency in APD's staffing and personnel distribution system. The monitoring team is aware that APD is faced with a more than serious staffing shortage across all areas of the agency. This is one of the more serious issues confronted by command staff at this point. The IAB "understaffing" appears to be simply an extension of that confronting the rest of the organization.

Results

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

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

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 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 Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

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.

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

4.7.163 Compliance with Paragraph 200: Initial Training Required for CPOA Investigators

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

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 Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

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.

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

4.7.164 Compliance with Paragraph 201: Discipline to be Fair and Fact-based

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

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 Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

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.

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.

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

4.7.165 Compliance with Paragraph 202: Disciplinary Matrix Required

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

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 Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Policy regarding the APD disciplinary system is set forth in General Order 1-09. Seven (7) classes of violations are listed in a Chart of Sanctions 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 or exemplar 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. 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.

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

4.7.166 Compliance with Paragraphs 203-211 Staffing Study

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 first Monitor's Report. Once the

results of that project are submitted, the monitoring 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**

4.7.167 Compliance with Paragraph 212

Paragraph 212 stipulates:

Within nine months of the Operational Date, APD shall revise and update its Early Intervention System to enhance its effectiveness as a management tool that promotes supervisory awareness and proactive identification of both potentially problematic as well as commendable behavior among officers. APD supervisors shall be trained to proficiency in the interpretation of Early Intervention System data and the range of non-punitive corrective action to modify behavior and improve performance; manage risk and liability; and address underlying stressors to promote officer well being

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.

Results

APD is involved in the transition to a new system, "IAPro," to facilitate tracking of IA complaints as a part of the department's new EIS. Testing of the new system is currently ongoing. In addition, a new software package, Blue Team, is still under development, as is supervisory training.

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

4.7.168 Compliance with Paragraph 213: EIS Threshold Levels

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.

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

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

4.7.169 Compliance with Paragraph 214: EIS Rolling Thresholds

Paragraph 214 states:

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 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.

Results

APD currently uses 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.

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

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 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.

Results

Again, APD's transition to IA-Pro is designed to satisfy this paragraph. This software is rapidly approaching the "industry standard" for Internal Affairs functions in American policing. The new system is currently in "testing phase," and the company producing the software has committed to APD to facilitate changes that it may want made to the software to accommodate requirements of the CASA. IA-Pro will be supplemented with additional "Blue-Team" software. The ability to capture search and seizure data is unresolved by these software packages, and is an issue APD is working to resolve.

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

4.7.171 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 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.

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.

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

4.7.172 Compliance with Paragraph 217: Retention Schedule for EIS Data

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 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.

Results

Members of the monitoring team have met with personnel from IAB who have responsibility for managing the Department's transition to its new Early Intervention System. During that process, the team identified implementation timelines, issues related to implementation and integration use. Data in the system will be held indefinitely, according to implementation plans. The IA-Pro system, with the modifications agreed to by the manufacturer, appears to meet and/or exceed all requirements of Paragraph 217.

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.173 Compliance with Paragraph 218: Training Regarding 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 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.

Results

The current Early Intervention System is “in-progress” in many aspects, as protocols and policies, training for 150 supervisors, and training for all employees are currently “under development” by the APD. Final execution is due by March 2, 2016.

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

4.7.174 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:

Based on interviews with involved-staff, no plans for change to the existing system are pending at this time.

Results

Not Applicable. No changes planned at this time.

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

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

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 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

APD has completed its version of the operative policy for On-Body Recording Devices. APD is awaiting final comment from the monitoring team, prior to training and implementation.

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

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

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 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

APD has completed its version of the operative policy for On-Body Recording Devices. DOJ has reviewed and returned the proposed policies and procedures with comments. The monitoring team has reviewed the draft policy and returned "with comments."

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

4.7.177 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 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

APD has completed its version of the operative policy for On-Body Recording Devices. DOJ has reviewed and returned policies and procedures with comments. The monitoring team has reviewed the draft policy and returned it to APD "with comments."

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

4.7.178 Compliance with Paragraph 223: Testing Schedule for OBRD

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 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

Policy/Procedures regarding paragraph 223 have been submitted to DOJ and returned with comments. The monitoring team has received "draft" updated policies/procedures, and has reviewed and returned them to the APD with comments.

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

4.7.179 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 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

Policy/Procedures regarding paragraph 224 have been submitted to DOJ and returned with comments. The monitoring team has received "draft" updated policies/procedures, and has reviewed and returned them to the APD with comments.

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

4.7.180 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 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

Policy/Procedures regarding paragraph 225 have been submitted to DOJ and returned with comments. The monitoring team has received "draft" updated policies/procedures, and has reviewed and returned them to the APD with comments.

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

4.7.181 Compliance with Paragraph 226: Compliance with Laws and Regulations Regarding 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 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**

4.7.182 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**

4.7.183 Compliance with Paragraph 228: Reporting Reasons for 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 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**

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

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 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**

4.7.185 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 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**

4.7.186 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 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**

4.7.187 Compliance with Paragraph 233: Recruitment and Selection Planning

Paragraph 233 stipulates:

APD shall develop a strategic recruitment plan that includes clear goals, objectives, and action steps for attracting qualified applicants from a broad cross section of the community. The recruitment plan shall establish and clearly identify the goals of APD's recruitment efforts and the duties of officers and staff implementing the plan

Results

APD has revised its Policies/Procedures, and they are currently in the review process. The review process has not been completed as of the drafting of this report. The Monitor has not received a final Policies/ Procedures or Recruitment Plan for review and approval.

Results

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

4.7.188 Compliance with Paragraph 234: Recruiting and Selection Standards

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 first 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

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

4.7.189 Compliance with Paragraph 235: Consultation with Community Stakeholders re Recruiting

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 first 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 revised its Policies/Procedures, and they are currently in the review process. That process has not been completed as of the drafting of this report. The Monitor has not received a final/approved Policies/Procedures or Recruitment Plan and has not received any documentation of consulting with community stakeholders (Meetings attended/logs/rosters/agendas, etc.).

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

4.7.190 Compliance with Paragraph 236: Objective Systems for Selection and Hiring of Recruits

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 first 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 revised its Policies/Procedures, and they are currently in the review process; however, that review process has not been completed as of the drafting of this report. The Monitor has not received a final/approved Policies/Procedures or Recruiting Plan.

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

4.7.191 Compliance with Paragraph 237: Selection Processes 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 first 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 revised its Policies/Procedures, and they are currently in the review process. The review process has not been completed as of the drafting of this report, nor has the monitoring team received a final/approved Policies/Procedures or Recruitment Plan. There appear to have been no lateral hires in the last 3 years.

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

4.7.192 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 first 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

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

4.7.193 Compliance with Paragraph 239: Background Investigations for Lateral Hires

Paragraph 239 stipulates:

APD shall complete thorough, objective, and timely pre-employment investigations of all lateral hires. APD's pre-employment investigations shall include reviewing a lateral hire's history of using lethal and less lethal force, determining whether the lateral hire has been named in a civil or criminal action; assessing the lateral hire's use of force training records and complaint history, and requiring that all lateral hires are provided training and orientation in APD's policies, procedures, and this Agreement.

Methodology

During the first 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 revised its Policies/Procedures, and they are currently in the review process. The review process has not been completed as of the drafting of this report, nor has the monitoring team received a final/approved

Policies/Procedures or Recruitment Plan. There appear to have been no lateral hires in the last 3 years.

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.194 Compliance with Paragraph 240: Recruiting Annual 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 first 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 revised its Policies/Procedures, and they are currently in the review process. The review process has not been completed as of the drafting of this report, nor has the monitoring team received a final/approved Policies/Procedures or Recruitment Plan.

Primary: Not Yet Due

Secondary: Not Yet Due

Operational: Not Yet Due

4.7.195 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 secured promotional practices policies from Tuscon, AZ PD and the Las Vegas Metro PD, and using those and the CASA as guides, has flowcharted the proposed promotional practice. No APD policies have been drafted as of this point.

Results

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

4.7.196 Compliance with Paragraph 242: Objective Criteria for 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 Tuscon, 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.

Results

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

4.7.197 Compliance with Paragraph 243: Removal of Officers for Consideration for Promotion

Paragraph 243 stipulates:

243. 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 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 first report.

Results

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

4.7.198 Compliance with Paragraph 244: Fair Performance Evaluations

Paragraph 244 stipulates:

244. 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

The APD has deferred development on this paragraph until it's automated Early Intervention System is on-line. A final date for rollout of that system has yet to be confirmed.

Results

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

4.7.199 Compliance with Paragraph 245: Annual Performance Evaluations

Paragraph 245 stipulates:

As part of this system, APD shall maintain a formalized system documenting annual performance evaluations of each officer by the officer's direct supervisor. APD shall hold supervisors accountable for submitting timely, accurate, and complete performance evaluations of their subordinates

Methodology

While planning and assessment for this task are underway at APD, no formal documentation has been provided to the monitoring team as of the writing of this report.

Results

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

4.7.200 Compliance with Paragraphs 255-270: Community Outreach

Compliance with Paragraph 255-270 are currently “not yet due” based on the requirements of the CASA. All of the paragraphs relate to community outreach, which, is a knowable “long—term” issue for the CASA.

Much of the activity on paragraphs 255-270 fell outside the reporting period for this report, i.e., February-May, 2015. During that reporting period, members of the community policing councils were interviewed, and by the end of the reporting period, most members had completed the one required “ride-along,” and 25 percent had completed the 12-week Citizens’ Police Academy. As a result of the issues of meeting required standards, APD has acknowledged the need to expand the number of voting members to ensure a representative cross section of participants. Meeting space has been allocated and has provided a contracted facilitator to support each CPC. The City also has developed websites for each CPC. A great deal of maturation with the CPC is expected. It is early in the process, and the expectations of the CPCs are high. The CPC process is still basically in the organizational stages, getting the ground-rules down, and beginning to think about future issues. Interestingly, information about the CASA and APD’s compliance efforts are not yet being shared with the CPCs. An Annual Report for the CPCs is expected by the end of 2015.

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

4.7.201 Compliance with Paragraph 271: Responsibilities of CPOA

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

The City of Albuquerque has implemented the CPOA by Ordinance 9-4-1-14. As of the due date for submissions for the first report, members of the monitoring have seen no other policies, rules and procedures of the CPOA other than the Ordinance. A review of randomly selected CPOA investigations by the monitoring team during this site indicated meaningful, independent review of citizen complaints.

The monitoring team was unable to assess this site visit whether or not the CPOA provides review and recommends changes to APD policy and monitors long-term trends in APD's use of force.

Results

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

4.7.202 Compliance with Paragraph 272: CPOA Independence

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 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**

4.7.203 Compliance with Paragraph 273: Membership of CPOA

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 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 CPOA. 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.

Compliance

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

4.7.204 Compliance with Paragraph 274: Initial Training for CPOA

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 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**

4.7.205 Compliance with Paragraph 275: On-Going Training for CPOA

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 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**

4.7.206 Compliance with Paragraph 276: Field Training for CPOA

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 CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection 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**

4.7.207 Compliance with Paragraph 277: Resources for CPOA

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 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: In Compliance

4.7.208 Compliance with Paragraph 278: Budget for CPOA

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 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**

4.7.209 Compliance with Paragraph 279 : Investigative Staff for CPOA

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 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**

4.7.210 Compliance with Paragraph 280: CPOA Complaint Intake and Processing

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**

4.7.211 Compliance with Paragraph 281: CPOA Investigative Case Assignment and Processing

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

4.7.212 Compliance with Paragraph 282: CPOA Access to Needed Documents

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 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. 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

4.7.213 Compliance with Paragraph 283: Access to Records 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**

4.7.214 Compliance with Paragraph 284: Confidentiality Protocols at CPOA

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. No instance of a breach of the confidentiality requirements was noted by the monitoring team.

Results

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

4.7.215 Compliance with Paragraph 285: CPOA 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 Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

The Ordinance sets forth the policy required by this paragraph, empowering the Director to make recommendations regarding disciplinary action directly to the Chief before submitting same 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**

4.7.216 Compliance with Paragraph 286: Documentation of CPOA Findings at APD

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 same 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**

4.7.217 Compliance with Paragraph 287: Appeals of CPOA 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 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**

4.7.218 Compliance with Paragraph 288: CPOA Recommendations Regarding APD Policy and Training

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 random selection 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**

4.7.219 Compliance with Paragraph 289: Chief's Documentation of Reasons Declining Policy Changes

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 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**

4.7.220 Compliance with Paragraph 290: CPOA 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 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

4.7.222 Compliance Paragraph 291: CPOA Community Outreach

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 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**

4.7.223 Compliance with Paragraph 292: CPOA Semi-Annual Reports

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 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,; **however**, that the Ordinance does not explicitly require a separate analysis of serious force incidents as set forth in this paragraph.

The monitoring team reviewed 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**

4.7.224 Compliance with Paragraph 320: Notice to the Monitor of Officer Involved Shootings

Paragraph 320 stipulates:

To facilitate its work, the Monitor may conduct on-site visits and assessments without prior notice to the City. The Monitor shall have access to all necessary individuals, facilities, and documents, which shall include access to Agreement-related trainings, meetings, and reviews such as critical incident review and disciplinary hearings. APD shall notify the Monitor as soon as practicable, and in any case within 12 hours, of any critical firearms discharge, in-custody death, or arrest of any officer

Methodology

To date, the monitor has noted several critical incidents involving officer-involved shootings that have been reported in the media since implementation of the CASA that have not been followed up by reports—either in writing or by telephone—from the City or APD. The monitoring team will work with the City on its next site visit to resolve this reporting problem prior to December. At that time, the monitor may choose to self-initiate personal responses to shooting scenes so as to observe any officer-involved shooting responses directly and independently.

Results

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

5.0 METHODOLOGY

The methodology developed for assessing APD's compliance with the requirements of the decree was developed by the monitor and "staffed" through the Parties. Each of the specific elements of the CASA were, where possible, operationally defined using quantitative data. The few elements that did not lend themselves to quantitative measures were defined qualitatively. For example, a quantitative measure is illustrated by the measure for the first task evaluated by the monitoring team, Task 14a requires "14. 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. The Methodology defines nine quantifiable sources of "measures" of success for meeting the requirements of the policy statement, and further defines greater than 95 percent of "all Use of Force" incidents and reports to be "within articulated policy ."

See Appendix One for a complete copy of the monitoring methodology.

6.0 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 first report (February-May, 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);

Paragraph 151: Developing an itemized training schedule (this was a policy with a **six-month** compliance deadline); and

Paragraph 196: Establishing an anti-retaliation policy (this was a policy with a **six-month** compliance deadline).

Thus, the City's and APD's compliance ratio for the first reporting period is 100 percent of tasks currently due (the two- and three-month requirements).

Overall, current status indicates compliance was achieved in **15 of 280 primary tasks**. This constitutes a Primary compliance rate of **5.3 percent**. Current status indicates Secondary compliance was achieved with **4 of 280 secondary tasks**, constituting a secondary compliance rate of **1.4 percent**. Operational compliance was achieved in **4 of 280 operational tasks** constituting an operational compliance rate of **1.4 percent**. While these numbers may appear disconcerting, it is the monitor's experience that **all** first reports are difficult, as they tend to reflect the organization at its initial state on a multi-year journey. In that perspective, the APD is no better or worse than most other agencies at this stage of the change process.

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 supervisory process.

The monitoring team sees the critical pressure points at this time to be:

1. **Developing an effective and efficient NEEDS ASSESSMENT process for training;**
2. **Development of effective POLICY reflective of the United States Constitution and best practices in the field;**
3. **Creation of strong TRAINING development and delivery of processes;**
4. **Building effective SUPERVISORY SKILLS and abilities among sergeants and lieutenants;**
5. **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;**
6. **In addition, the APD will eventually need to build a strong SELF-ASSESSMENT and self-reporting ethos among command and management staff;**
7. **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 timeframe.

The APD has 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. To change a "for profit" organization is complex, and, affects usually "the bottom line" in those organizations. In a police agency the at-risk elements include much more serious factors.

The members of the monitoring team stand ready to assist APD and the City's involved agencies such as the CPOA and POB in any reasonable and ethical way possible to adapt, respond and succeed in this project. In the coming months, the monitor will be available virtually full-time on-site to work with APD's leadership, supervisors, and line officers to ensure they understand the

requirements of the planned-change project that confronts them, and are successful in meeting their commitments to the residents of the City of Albuquerque.