Monitor's 19th Report

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

No. 1:14-CV-1025-JB-JFR

May 13, 2024

Prepared by: Public Management Resources, Inc.

James D. Ginger, Ph.D., Independent Monitor

Table of Contents

1.0 Introduction

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

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

The purpose of the monitor's periodic compliance reports is to inform the Court of the monitor's findings related to the progress made by APD in achieving compliance with the individual requirements of the Court Approved Settlement Agreement (CASA). This report covers the compliance efforts made by APD during the 19th reporting period, which covers August 1, 2023, through January 31, 2024.

2.0 Executive Summary

APD and CPOA have made significant progress during the IMR-19 reporting period. The monitor acknowledges that progress has taken a significant effort from APD, CPOA, and the City. The number of APD self-monitored paragraphs is at the highest point in the history of the CASA compliance efforts. This is a significant achievement, indicating that APD is now capable of assuming responsibility for oversight of CASA requirements and is not reliant on the monitoring team to do so.

We note that all the CASA paragraphs relating to discipline are compliant. This represents another milestone for APD's compliance efforts. As of the 19th reporting period, APD is effectively self-monitoring 191 paragraphs. Perhaps more importantly, we found all force investigation processes compliant during the 19th reporting period. Level 2 and Level 3 use of force incidents were down 16 percent from the last reporting period. We consider this strong evidence that APD's policies, supervisory oversight, and disciplinary systems are working as designed. We note that the External Force Investigation Team (EFIT) is no longer providing oversight to the Internal Affairs Force Division (IAFD).

Similar progress is evident at CPOA during this reporting period. All the CPOA investigations reviewed by the monitoring team this reporting period were compliant with the CASA requirements. The CPOA Board has been fully reconstituted and are currently working to complete training and other requirements of the CASA.

We would be remiss, however, if we did not note some remaining areas that are still in need of improvement. These include:

- CPOA issues related to timelines and staffing;

- Completing the implementation of effective training for the CPOA Board members; and

- Continuing improvement of supervisory oversight of in-field activities such as use of force.

Frequent readers of the monitor's reports will note that this "to-do list" is markedly shorter than in the past. This is reflective of the significant progress APD has made over the last six months.

3.0 Synopsis of Findings for the 19th Reporting Period

As of the end of the IMR-19 reporting period, APD's compliance levels are as follows:

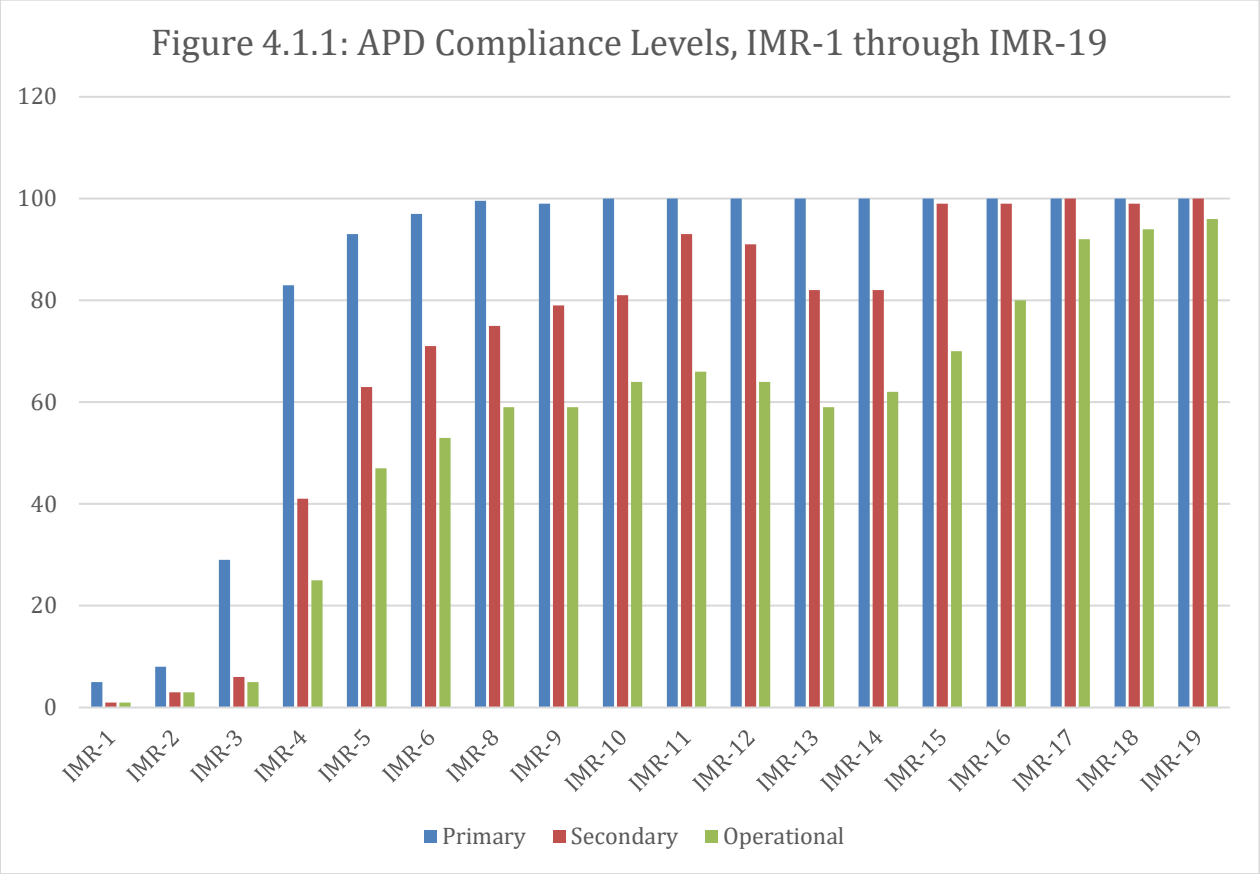
Primary Compliance	100%
Secondary Compliance	100% and
Operational Compliance	96%

4.0 Current Compliance Assessments

As part of the monitoring team's normal course of business, it established a baseline assessment of all paragraphs of the CASA for the Independent Monitor's first report (IMR-1)[1]. This was an attempt to provide the Parties with a snapshot of existing compliance levels and, more importantly, to identify issues confronting compliance as APD continues to work toward full compliance. As such, the baseline analysis was considered critical to future performance in APD's reform effort, as it clearly depicts the issues standing between the APD and full compliance. This report, IMR-19, provides a similar assessment and establishes a picture of progress on APD goals and objectives since the last monitor's report. Overall compliance levels are depicted in Figure 4.1.1, below.

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

4.1 Overall Status Assessment



APD remained consistent with its Primary Compliance, and Secondary Compliance was determined to be 100 percent. During this reporting period, APD's Operational Compliance increased to 96 percent.

4.2 Project Deliverables

The 3rd Amended Court-Approved Settlement Agreement defines the project deliverables of the CASA. Each deliverable is identified in detail in section 4.7, beginning on page 6.

4.3 Format for Compliance Assessment

There are 80 paragraphs monitored in this report. Three paragraphs in the 3rd Amended CASA were intentionally left blank, and two were updated to indicate they were non-rated introductory paragraphs. 191 paragraphs are under self-monitoring by APD and the City of Albuquerque. We note these CASA paragraphs have been moved

to APD self-monitoring based on the agreement of the Parties and the concurrence of the monitor[2].

The monitor's reports are structured into nine major sections, following the structure of the CASA:

I. Use of Force;

II. Specialized Units;

III. Crisis Intervention;

IV. Policies and Training;

V. Misconduct Complaint Intake, Investigation, and Adjudication;

VI. Staffing, Management, and Supervision;

VII. Recruitment, Selection, and Promotions;

VIII. Officer Assistance and Support; and

IX. Community Engagement and Oversight;

The nineteenth monitor's report does not address in detail items II, Specialized Units, VII, Recruitment, Selection, and Promotions, or VIII, Officer Assistance and Support, as APD is in full compliance with the requirements of these sections of the CASA. This report addresses the remaining six of these nine major areas, in turn, beginning with APD's response and performance regarding reporting, supervising, and managing its officers' use of force during the performance of their duties and ending with APD's efforts at community engagement and its ability to facilitate community oversight of its policing efforts.

4.4 Structure of the Monitoring Assessment Process

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

[2] Final 3rd Amended CASA, paragraph 302.

- Data that were collected by using a structured random sampling process; or

- Selecting *all* available records of a given source for the "effective dates."

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

4.5 Operational Definition of Compliance

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

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

- **Secondary Compliance**: Secondary compliance is attained by providing acceptable training related to supervisory, managerial, and executive practices designed to (and effective in) implementing the policy as written, e.g., sergeants routinely enforce the policies among field personnel and are held accountable by managerial and executive levels of the department for doing so. By definition, there should be operational artifacts such as reports, disciplinary records, remands to retraining, follow-up, and even revisions to policies if necessary, indicating that the policies developed in the first stage of compliance are known to, followed by, and important to supervisory and managerial levels of the department.

- **Operational Compliance**: Operational compliance is attained at the point that the adherence to policies is apparent in the day-to-day operation of the agency, e.g., line personnel are routinely held accountable for compliance, not by the monitoring staff, but by their sergeants, and sergeants are routinely held accountable for compliance by their lieutenants and command staff. In other words, the APD "owns" and enforces its policies.

4.6 Operational Assessment

APD and the City (including the CPOA and CPOA Board) have agreed to comply with each articulated element of the CASA. The monitoring team provided the Parties with copies of the team's monitoring methodology (a 299-page document), asking for comment. That document was then revised based on comments by the Parties. This document reflects the monitor's decisions relative to the Parties' comments and suggestions on the proposed methodology and is congruent with the final methodology included in Appendix One of the monitor's first report[3]. The first operational paragraph, under this rubric, is paragraph 14, as paragraph 13 is subsumed under paragraph 14's requirements. We note that some paragraphs were changed in the 3rd Amended CASA.

4.6.1 Methodology

The monitor assessed the City and APD's compliance efforts during the 19th reporting period using the *Monitor's Manual*, included as Appendix A in the monitor's first report (see footnote 3 for a link to that methodology). We note that the original methodology was sometimes revised based on the availability of records (or lack thereof) and related organizational processes. The manual identifies each task required by the CASA and stipulates the methodology used to assess compliance. The reader will note that, as of IMR-19, additional CASA Paragraphs are being monitored by APD, as provided for by the CASA, once long-term compliance is established by APD, as per monitor's findings.

4.7 Assessing Compliance with Individual Tasks

APD's compliance with individual tasks for the 19th reporting is described in the following sections.

4.7.1- 4.7.3 Assessing Compliance with Paragraphs 14 -16

4.7.1 Assessing Compliance with Paragraph 14

Paragraph 14 stipulates:

> **"Use of force by APD officers, regardless of the type of 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] Available at: https://www.justice.gov/usao-nm/file/796891/download

e) APD shall explicitly prohibit using leg sweeps or prone restraints, except as objectively reasonable to prevent imminent bodily harm to the officer or another individual; to overcome active resistance; or as objectively reasonable where physical removal is necessary to overcome passive resistance and handcuff the individual;

f) APD shall explicitly prohibit using force against individuals in handcuffs, except as objectively reasonable to prevent imminent bodily harm to the officer or another individual; 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 an individual shall be reported as a Level 1 Use of Force, and shall be done only as objectively reasonable to accomplish a lawful police objective; and

i) once a scene is secure following a use of force, officers, and, upon arrival, a supervisor, shall immediately inspect and observe individuals subjected to 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 consistent with their training until professional medical care providers arrive on scene."

Methodology

CASA requirements stipulate that the use and investigation of force shall comply with applicable laws and comport with best practices. Central to these investigations shall be a determination of each involved officer's conduct to determine if the conduct was legally justified and compliant with APD policy. As reported in IMR-18, throughout 2022, APD worked to revise its force policies, and on January 26, 2023, they issued monitor-approved policies to the department.

SOP 2-52 Use of Force – General (1/26/2023)
SOP 2-53 Use of Force – Definitions (1/26/2023)
SOP 2-54 Use of Force – Intermediate Weapon Systems (1/26/2023)
SOP 2-55 Use of Force – De-escalation (1/26/2023)
SOP 2-56 Use of Force – Reporting by Department Personnel (1/26/2023)
SOP 2-57 Use of Force – Review and Investigation by Department Personnel (1/26/2023)

APD committed significant time and resources to develop and deliver monitor-approved training of their new policies throughout 2023. A monitoring team member conducted an in-person review of the training to ensure the quality of the delivery was appropriate and consistent with the approved curriculum. As previously reported, the coordination and delivery of the two training days were

well-organized and professional. During the IMR-19 reporting period, use of force training Paragraphs 86-87 were moved into self-assessment following sustained Operational Compliance. Paragraph 88, centered on annual supervisory use of force training, remains under monitoring. Since training associated with Paragraph 88 has (traditionally) been intrinsically linked to Paragraphs 86-87, careful attention is necessary as APD develops its use of force training for 2024. The Academy should ensure use of force training programs complement each other and should closely assess the ongoing needs of officers and supervisors in the field.

In preparation for this monitoring report, we collected data relevant to making reliable assessments of APD's progress with Paragraph 14, along with many additional paragraphs centered on uses of force, the reporting and supervision of force investigations, and the oversight of uses of force by the Force Review Board (FRB). Among the data we reviewed were a sample of incidents reported as low-level control tactics (LLCT) by officers in the field; investigative files of reported uses of force applications of Level 1, Level 2, and Level 3; and files reviewed by the FRB. We report extensively on our compliance findings of these use of force events in Paragraphs 24-29 (ECW), 41-59, 60-78.

Results

The monitoring team later documents below its case observations and compliance findings regarding the aforementioned CASA paragraphs in this report. Throughout our case reviews, we found areas of success and areas needing improvement that APD should review closely. The monitoring team communicated some of its observations contemporaneously with our reviews in the hope APD would use our feedback to adjust operations or remediate potential performance issues. Our goal was to help APD address issues quickly and avoid problems in the future. That said, we did not see anything that constituted an adverse trend that would impact compliance with this paragraph.

Based on our review of data for this monitoring period, APD has sustained Operational Compliance with Paragraph 14.

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

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

Paragraph 15 stipulates:

> **"APD shall develop and implement an overarching agency-wide use of force policy that complies with applicable law and comports with best practices. The use**

> **of force policy shall include all force techniques, technologies, and weapons, both lethal and less lethal, that are available to APD officers, including authorized weapons, and weapons that are made available only to specialized units. The use of force policy shall clearly define and describe each force option and the factors officers should consider in determining which use of such force is appropriate. The use of force policy will incorporate the use of force principles and factors articulated above and shall specify that the use of unreasonable force will subject officers to discipline, possible criminal prosecution, and/or civil liability**."

Methodology

Throughout 2022, APD worked to revise its force policies, and on January 26, 2023, they issued monitor-approved policies to the department. As we reported in IMR-18, training for those policies were implemented thoroughly throughout the IMR-18 monitoring period. Paragraphs 86-87 were moved into self-assessment during the IMR-19 reporting period, and we report our findings regarding Paragraph 88 which is centered on annual supervisory use of force training.

Results

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

4.7.3 Assessing Compliance with Paragraph 16: Weapons Protocols

Paragraph 16 stipulates:

> **"In addition to the overarching use of force policy, APD agrees to develop and implement protocols for each weapon, tactic, or use of force authorized by APD, including procedures for each of the types of force addressed below. The specific use of force protocols shall be consistent with the use of force principles in Paragraph 14 and the overarching use of force policy."**

Results

As reported in IMR-18, throughout 2022, APD worked to revise its use-of-force policies, and on January 26, 2023, they issued monitor-approved policies to the department. APD's Academy developed and delivered monitor-approved training for those policies throughout 2023. A monitoring team member observed the training and reviewed course of business documentation, demonstrating that APD officers and supervisors successfully completed the training to maintain Operational Compliance with Paragraphs 86-87. Those paragraphs were moved to self-assessment during the IMR-19 reporting period.

The use of force training delivered during the IMR-18 and IMR-19 monitoring periods was thorough and professional and met the requirements of this paragraph. We report our findings regarding annual supervisory use of force training in Paragraph 88.

APD has met the requirements of Paragraph 16 for this monitoring period.

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

4.7.4 – 4.7.10 Assessing Compliance with Paragraphs 17 - 22

Paragraphs 17 - 22 are self-monitored by APD.

4.7.10 Assessing Compliance with Paragraph 23: Tracking Firearm Discharges

Paragraph 23 stipulates:

> **"APD shall track all critical firearm discharges."**

Results

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

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

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

Paragraph 24: Use of ECWs;
Paragraph 25: ECW Verbal Warnings;
Paragraph 26: ECW Limitations;
Paragraph 27: ECW Cycling;
Paragraph 28: ECW Drive-Stun Mode;
Paragraph 29: ECW Reasonableness Factors;
Paragraph 30: ECW Targeting;
Paragraph 31: ECW Restrictions;
Paragraph 32: ECW Weak-side Holster;
Paragraph 33: ECW Annual Certification;
Paragraph 34: ECW Medical Protocols;
Paragraph 35: ECW Medical Evaluation; and
Paragraph 36: ECW Notifications.

During this reporting period, the monitoring team continued its analysis of APD's use of force cases involving the use of Electronic Control Weapons (ECWs). Over the past several monitoring periods, operational compliance has fluctuated due to varying degrees of in-field ECW compliance.

During this monitoring period, APD case ledgers revealed 42 distinct cases in which an ECW was used, inclusive of 17 Level 1 ECW Shows of Force where no higher level of force was used.[4] This means that these 17 cases consisted of just an ECW show of force not accompanied by an ECW application, miss, or any other higher-level use of force. There were 25 cases in which an ECW was used that were investigated as a Level 2 or Level 3 use of force. The 17 ECW Shows of Force (cases in which no higher level of force was utilized in these incidents) represent 40% of all ECW cases.

Since IMR-16, the monitoring team noted that all ECW cases investigated by area commands had been completed within specified timeframes. The same is true during this monitoring period, as all Level 1 ECW cases (now reviewed by a dedicated group of Level 1 force investigators) were completed within 30 days. In fact, no case came within 12 days of the 30-day mark. These data are set forth in Table 4.7.11a, on the following page.

[4] In IMR-18, nine of the 35 ECW cases (26%) included only ECW Shows of Force (cases in which an actual ECW application did not occur). In IMR-17, eight of the 28 ECW cases (29%) included only ECW Shows of Force. In IMR-16, nine of the 36 ECW cases (25%) included only ECW Shows of Force. In IMR-15, four of the 20 ECW cases (20%) included only ECW Shows of Force. In IMR-14, 19 of the 40 ECW cases (48%) included only ECW Shows of Force. In IMR-13, 29 of the 67 ECW cases (43%) included only ECW Shows of Force. In IMR-12, 64 of the 99 ECW cases (65%) included only ECW Shows of Force. In IMR-11, ten of the 53 ECW cases (19%) included only ECW Shows of Force.

Table 4.7.11a

Monitoring Period (MP)	ECW Cases Opened during the Monitoring Period	ECW Cases Opened AND Completed During the Same Monitoring Period	% of ECW Cases Opened and Completed During the Same Monitoring Period
IMR-11	53	33	62%
IMR-12	99	30	30%
IMR-13	67	3	4%
IMR-14	40	11	28%
IMR-15	20	11	55%
IMR-16	36	21	58%
IMR-17	28	19	68%
IMR-18	35	19	54%[5]
IMR-19	42	27	64%[6]

Table (4.7.11b) contains the monitoring team's review results of 22 ECW cases (eight Level 1 cases, eleven Level 2 cases, and three Level 3 cases). The Level 1 cases are further examined within Paragraphs 41-59 for Supervisory Review of Use of Force Reporting. The Level 2 and Level 3 cases are further examined within Paragraphs 60-77, which address Force Investigations by the Internal Affairs Division (IAFD).

[5] More than half of the ECW cases occurred after the midpoint of the monitoring period. Thus, the 90-day deadline for these cases investigated by IAFD actually falls within IMR-19.

[6] More than half (60%) of the ECW cases occurred after the midpoint of the monitoring period. Thus, the 90-day deadline for these cases investigated by IAFD actually falls within IMR-20.

Table 4.7.11b

Para	Paragraph Provision	IMR-19-01	IMR-19-04	IMR-19-06[7]	IMR-19-07[8]	IMR-19-08[9]	IMR-19-09[10]	IMR-19-10[11]	IMR-19-11	IMR-19-12	IMR-19-13	IMR-19-14	IMR-19-15
24	ECW - shall not be used solely as a compliance technique	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
24	ECW - shall not be used to overcome passive resistance	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
24	ECW - protect officer, subject, 3rd party from physical harm	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
24	ECW - consider less intrusive means based on threat/resistance	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
24	ECW - control actively resistant person based on safety/effective	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
29[12]	Determine the reasonableness of ECW use based on circumstances	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y[13]	Y	Y

[7] This event involved a show of force against a suspect that brandished a knife in an earlier confrontation with another person. The suspect secreted himself in an apartment without permission, and was located hiding under a bed. When confronted, the suspect (now unarmed), initially refused to follow commands and an objectively reasonable show of force occurred by one officer.

[8] This event involved a show of force, and no discharge of the ECW.

[9] This event involved a show of force, and no discharge of the ECW.

[10] This event involved a show of force, and no discharge of the ECW.

[11] This event began as the report of a male subject experiencing a mental health crisis, and evolved into a domestic violence incident. It culminated with the subject barricading himself in a bedroom while threatening to cut himself with a broken piece of glass. An officer painted the subject with his ECW as he passed through the bedroom doorway and attempted to take the subject into custody. These movements evolved quickly and a warning to use the ECW could not be reasonably given under the circumstances.

[12] Paragraphs 25, 26, 27, and 28 are in Self-Assessment.

[13] Mandatory training requests were appropriately submitted for officers to reinforce the need to consider not using ECW's near gas pumps and for the inadvertent covering of an officer with an ECW.

Table 4.7.11b

Para	Paragraph Provision	IMR-19-16	IMR-19-17	IMR-19-18	IMR-19-19[14]	IMR-19-20[15]	IMR-19-21[16]	IMR-19-22[17]	IMR-19-23[18]	IMR-19-24[19]	IMR-19-33[20]
24	ECW - shall not be used solely as a compliance technique	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
24	ECW - shall not be used to overcome passive resistance	Y	Y	Y	Y	Y	Y	Y	N	Y	Y

[14] A subject was detained, suspected of possession of an illegal substance. The subject failed to follow instructions to dismount a bicycle, physically struggled with an officer who was attempting to detain him, and then began to run away. Within a short distance the officer discharged his ECW, which incapacitated the subject. An internal affairs investigation sustained that the officer failed to properly use de-escalation techniques, and failed to give a warning prior to discharging the ECW, although feasible, and therefore there was no opportunity for the subject to cease his resistant acts prior to the use of an intermediate force option. At the point the ECW was discharged, the subject was moving away from the officer toward an area where there was no threat to the officer or others. The officer was disciplined for these failures. Despite these failures, APD found the force to be in-policy.

[15] Officers confronted a subject inside a fast-food establishment after he attempted to elude them. He was suspected of being in possession of a stolen vehicle. While entering the building a handgun dropped from his waistband. Once inside, the subject turned and failed to follow directions. The magazine for a weapon was visible in his waistband and an officer discharged his ECW, which was effective. The officer displayed excellent restraint in using his ECW under the circumstances he was presented.

[16] Two officers encountered a suspect behind the steering wheel of a vehicle and saw (in plain view) a controlled dangerous substance in his lap. An officer opened the driver's side door and ordered the subject from the vehicle. The suspect began a violent struggle and attempted to get away from the officers. The active resistance continued with both officers attempting to physically restrain the subject. One officer properly deployed his ECW two times when the subject attempted to reenter his vehicle to flee the area. During the first deployment, one probe failed to make contact, which required a second deployment. Later, the second officer conducted a show of force with her ECW, and at that point the subject surrendered. The use of force involved several instances of objectively reasonable physical force in additional to the uses of the ECWs.

[17] The event involved a criminal trespass in a commercial business. When confronted by an officer the subject fled on foot. When approached in another area, one officer displayed an ECW show of force. The subject was taken into custody, and officer actions were objectively reasonable and within APD policy.

[18] Officer tased a passively resistant female who was posing no immediate threat of harm to officers or others. The subject was demonstrating obvious signs of a mental health crisis. The use of force was not objectively reasonable or within APD policy.

[19] The case involved two ECW shows of force and two successful taser deployments. A male subject was being lawfully detained when he ran from two APD officers. Prior to running, the subject exhibited a combative demeanor and posture. He assaulted an officer when they attempted to stop him from fleeing. When officers reached the subject a second time, he continued his combative behavior. Both officers deployed their tasers, almost simultaneously, which had the desired effect. The subject was taken into custody without further uses of force. This was a rapidly evolving event at the point of the ECW deployments.

[20] The event involved a warrant arrest, where the subject actively resisted officers' attempts to handcuff him and then fled to a nearby house. There, he barricaded himself inside, resulting in a SWAT response. During the initial encounter, one officer utilized an ECW show of force in an attempt to stop the subject from running away. No deployment of the ECW occurred.

24	ECW - protect officer, subject, 3rd party from physical harm	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
24	ECW - consider less intrusive means based on threat/resistance	Y	Y	Y	N	Y	Y	Y	N	Y	Y
24	ECW - control actively resistant person based on safety/effective	Y	Y	Y[21]	Y	Y	Y	Y	N	Y	Y
29[22]	Determine the reasonableness of ECW use based on circumstances	Y	Y[23]	Y	N	Y	Y	Y	Y	Y	Y

No discernible problematic ECW trends have been noted during this monitoring period.

4.7.11 Assessing Compliance with Paragraph 24

Paragraph 24 stipulates:

> **"ECWs shall not be discharged solely as a compliance technique or to overcome passive resistance. Officers may use ECWs only when such force is necessary to protect the officer or any other individual 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 individual when attempts to subdue the individual 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 individual within contact range."**

Results

APD was in overall compliance with the provisions of this paragraph 95 percent of the time in the cases reviewed by the monitoring team during this monitoring period.

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

---

[21] The ECW usage in this event included a discharge and a fire-miss of the ECW, however, nearly simultaneous to the ECW usage the suspect pointed and fired a handgun at officers. Those officers were in close proximity to the suspect and returned fire. The suspect was shot and died at the scene.
[22] Paragraphs 25, 26, 27, and 28 are in Self-Assessment.
[23] A mandatory training request was appropriately submitted for an officer who emptied spent cartridges while the ECW was still turned on, which is contrary to SOP.

Operational: **In Compliance**

4.7.12- 4.7.15 Assessing Compliance with Paragraphs 25 - 28

Paragraphs 25 – 28 are self-monitored by APD.

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 individual's age, size, physical condition, and the feasibility of lesser force options. ECWs should generally not be used against visibly pregnant women, elderly individuals, young children, or visibly frail persons. In some cases, other control techniques may be more appropriate as determined by the individual's threat level to themselves or others. Officers shall be trained on the increased risks that ECWs may present to the above-listed vulnerable populations."**

Results

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

4.7.17 – 4.7.24 Assessing Compliance with Paragraphs 30 – 37

Paragraphs 30 – 37 are self-monitored by APD.

4.7.25 Paragraph 38:

[THIS PARAGRAPH INTENTIONALLY LEFT BLANK.]

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

Paragraphs 39 and 40 are self-monitored by APD.

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

The related Paragraphs (41 through 59) encompass requirements for classifying, reporting, investigating, and reviewing Level 1 uses of force that require a supervisory-level response based on the type and extent of force used. The CASA delineates this larger group of paragraphs into three sub-groups: Use of Force Reporting – Paragraphs 41-45; Force Reviews and Investigations – Paragraphs 46-49; and Supervisory Force

Reviews – Paragraphs 50-59. The following represents our findings relative to this series of paragraphs.

The CASA requirements stipulate that the use of force and reviews/investigations of force shall comply with applicable laws and comport with best practices. Central to these reviews and investigations shall be an assessment and determination of each involved officer's conduct to determine if the conduct was legally justified and compliant with APD policy. We have commented extensively in the past when APD's reporting and investigation of uses of force have demonstrated serious deficiencies that have hindered compliance efforts, (see for example, IMR-14). In previous reporting periods, the monitoring team spent considerable time in consultative processes in which we provided perspective, feedback, and technical assistance to APD personnel regarding force investigations.

Over the past three monitoring periods, APD has continued to improve the results of its Level 1 uses of force reviews. During this monitoring period, the reviews continued to improve, and the investigations were conducted in a more timely manner. The monitoring team did not observe any extension requests for Level 1 cases completed during this monitoring period.

Area Commands conducted their own reviews of Level 1 cases through July 31, 2023. Over the last few monitoring periods, the Area Commands have reduced the number of these cases that needed an extension to complete the cases and the number of reviews exceeding their respective deadlines. As of August 1, 2023 (the first day of the 19th monitoring period), Level 1 use of force cases are now reviewed by a dedicated team of APD personnel handling only Level 1 use of force cases. None of the Level 1 cases that occurred and were subsequently completed during IMR-19 required an extension. These cases were all completed within 21 days, with the average length of time from the occurrence of the use of force to case completion being 11.9 days. This represents a significant gain since IMR 15, when 79 Level 1 cases were initiated, and only 58 percent were completed within 30 days.

Case reviews and random checks of use of force reviews and investigations by the monitoring team reflect numerous examples of supervisory personnel requesting Internal Affairs (IA) investigations related to policy violations. These requests have historically been referred to as an Internal Affairs Request (IAR). Use of force cases (Levels 1, 2, and 3) reviewed during this reporting period contained appropriate requests for IARs for alleged policy violations. These IARs continue to be examined by the monitoring team to the point of their logical conclusions to determine if APD is properly administering its IA oversight functions. During IMR-19, APD's tracking data indicated that IAFD issued 185 requests for IA review of alleged policy violations associated with the use of force reviews and investigations.[24]

Table 4.7.28a illustrates the trend of IARs originating from the use of force cases.

[24] The IARs are for cases that occurred during IMR-19 as well as for cases occurring in previous monitoring periods.

Table 4.7.28a
Comparison of Use of Force Cases with Internal Affairs Requests (IARs)

Reporting Period (RP)	Level 1 UoF	Level 2 UoF	Level 3 UoF	Total UoF	Internal Affairs Requests (IARs)
IMR-12	173	232	79	484	534
IMR-13	111	244	54	409	424
IMR-14	116	216	91	423	199
IMR-15	79	169	43	291	90[25]
IMR-16	83	161	51	295	154
IMR-17	52[26]	185	47	284	153
IMR-18	45	190	44	279	170
IMR-19	79[27]	148	49	276	185

Since all potential policy violations observed during use of force incidents have been reported to IAPS via IARs, this aggregate data provides a rich resource for APD to analyze in determining alleged misconduct trends. Much of the training conducted by the APD Academy now uses these data, as contextually appropriate for the course being designed, as part of its needs assessment phase of curriculum development.

During this reporting period, APD opened 79 Level 1 use of force cases for supervisory review. In contrast, APD opened 45 Level 1 use of force cases for supervisory review during IMR-18, 52 cases during IMR-17, 83 during IMR-16, 79 during IMR-15, 116 during IMR-14, 111 during IMR-13, and 173 during IMR-12. In these previous monitoring periods, APD had numerous cases that exceeded their timelines for completing case reviews. These case reviews ranged from 60 days to complete to more than 150 days. The number of cases exceeding their deadlines has steadily declined over the past four monitoring periods.

During IMR-19, APD completed 72 of the 79 cases opened within this monitoring period. These cases were all completed within the cases' respective timelines. Seventy of the cases were investigated by the Level 1 team. Two cases completed during the monitoring period were investigated by IAFD, which has a 90-day window for completing cases.

During IMR-18, APD completed 44 of the 45 cases opened during the 18th monitoring period. As noted in Table 4.7.28b below, 98 percent of these Level 1 cases opened during IMR-18 were completed during the same monitoring period and were within their

[25] The 90 IARs for IMR-15 reflect IARs between the period of August 1, 2021, and December 31, 2021.
[26] The 52 Level 1 UoF cases opened during IMR-17 represent a 37% decrease from the 83 Level 1 UoF cases opened during IMR-16. This is the largest percentage decrease in Level 1 cases since the category of Level 1 cases was created in January 2020.
[27] This represents a 76% increase over the reported Level 1 uses of force during IMR-18.

respective timelines. This is the highest 30-day Level 1 case completion rate the monitoring team has observed.[28] During IMR-17, APD completed 50 of the 52 Level 1 cases opened within 30 days, and in IMR-16, the amount of time it took APD to complete the 83 Level 1 use of force cases opened for supervisory review ranged between 13 and 87 days. The monitoring team notes a sustained improvement in the timeliness of Level 1 cases.

During IMR-19, APD also completed cases that originated during the IMR-18 reporting period. APD completed a total of 77 Level 1 cases, regardless of the date of the force occurrence. Seventy-six of these cases were within their respective timelines. One case that occurred during IMR-18 (handled by an Area Command) and was completed during this monitoring period took 113 days to complete, but the case was suspended for a period of time due to an APD member being on FMLA. When considering the number of actual days of available review, the case was completed in 39 days, which exceeded the 34-day deadline for the Area Command. Another case (investigated by the dedicated Level 1 team) was completed in 21 days once the Level 1 team received it, but the Level 1 team did not receive the case until 26 days after the incident occurred because the case was initially misclassified in the field.[29]

During IMR-18, APD also completed cases that originated during the IMR-17 reporting period. During the 18th monitoring period, APD completed 46 Level 1 cases, including those cases that originated from the 17th monitoring period. All 46 of these cases were within their respective timelines. During IMR-17, APD completed a total of 63 Level 1 cases, including cases carried over from previous monitoring periods. One of the 63 cases APD completed during IMR-17 was from IMR-15. This case took 300 days to complete due to the assigned reviewer retiring and no other APD member being assigned to complete the review by an APD supervisor or executive. During IMR-16, APD also completed cases that originated during the IMR-15 reporting period. Four of those cases exceeded 100 days for the Area Commands to complete.

As noted in the last three monitoring reports, the monitoring team provided technical assistance (with feedback from the DOJ) to APD regarding developing a proposal for a pilot program to change how it handles Level 1 use of force cases. This initiative, which commenced in August 2022, utilized a dedicated team of APD personnel to conduct Level 1 reviews. During the last monitoring period, the monitoring team continued reviewing this pilot program, which had been extended due to the small number of cases reviewed by the pilot program team. During the last monitoring period, the dedicated group of APD personnel conducting Level 1 reviews as part of the pilot program completed 14 reviews.[30] The average completion time for these case reviews was 9.7

[28] The 96% completion rate during IMR-17 was the highest completion rate for Level 1 reviews observed by the monitoring team before this monitoring period.

[29] Since this case was discovered by an APD lieutenant during a chain-of-command OBRD review, and APD completed this case within its specified deadline once it was received by the Level 1 team, this case is not considered out of policy. It should be noted that APD filed an IAR for an Internal Affairs investigation for the misclassification of force that occurred in the field.

[30] One of these 14 cases occurred during IMR-17 but was completed during IMR-18. The other 13 Level 1 cases occurred during IMR-18 and were all completed during IMR-18.

days. Compared to the average time spent conducting Level 1 reviews over the past several monitoring periods, the work of the pilot program team represented significant savings in the amount of time expended on these cases.

The pilot program ended in July 2023. Based on the data, observations of the pilot program, and the benefits derived from having a dedicated group of APD personnel handling Level 1 uses of force, APD adopted the concept of the pilot program citywide. As of August 1, 2023, APD now has a Level 1 team that exclusively handles the review of all Level 1 uses of force. Based upon the monitoring team's observations of both the pilot program and the operation of this team during the 19th monitoring period, if this team remains appropriately staffed, this new team can significantly reduce the amount of time APD spends on these reviews. Amongst other advantages, this will free more time for Area Command personnel to focus on supervising and leading personnel *in the moment* instead of focusing on past events. It should be noted, however, that the number of Level 1 uses of force increased 76 percent since the last monitoring period when staffing was established for this new team. We will pay close attention to the effectiveness and efficiency of the Level 1 team and its compliance with timelines, using its 9.7-day average for completing cases during the pilot program and its 11.9-day average during this monitoring period as a baseline for comparison.

As the table 4.7.28b below indicates, during the first three months (August through October) of the reporting period, 30 supervisory reviews were initiated, and 100 percent of the cases were completed within their respective deadlines.[31] This is the highest 30-day case completion rate for Level 1 cases initiated during the first three months of a monitoring period that the monitoring team has observed to date.[32] This is obviously very encouraging data in terms of completion rates.

This analysis provides a snapshot of how APD continues to improve in completing these investigations in a timely manner. See Table 4.7.28b on the following page.

[31] One case was handled by IAFD and one case was noted in a previous footnote regarding the lieutenant finding the misclassified use of force during a chain-of-command OBRD review (but the case was still handled efficiently once it was received by the Level 1 team).

[32] The highest previously observed rate was 95% (which occurred last monitoring period).

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

Reporting Period	# of Sup. UoF Cases Initiated (Months 1-3) of the Rep. Period	# of Sup. UoF Cases (Months 1-3) Completed within 30 days	Total # of Sup. UoF Cases Initiated during the Rep. Period	Total # of Sup. UoF Cases Completed within 30 days
IMR-19	30	30 (100%)	79	72 (91%)
IMR-18	19	18 (95%)	45	44 (98%)
IMR-17	31	29 (94%)	52	50 (96%)
IMR-16	44	39 (89%)	83	70 (84%)
IMR-15	42	38 (90%)	79	46 (58%)
IMR-14	49	34 (69%)	116	66 (57%)
IMR-13	52	41 (79%)	111	67 (60%)
IMR-12	99	76 (77%)	173	117 (68%)

The monitoring team conducted a review of Level 1 uses of force drawn from samples taken throughout the reporting period. Level 1 uses of force often occur with Level 2 and Level 3 uses of force. Therefore, some Level 1 uses of force are also assessed in the next section of this report, which focuses on Level 2 and Level 3 uses of force.

See Appendix A for data related to the monitoring team's review of 10 Level 1 use of force cases.

Observations and Comments

As noted in the data presented in this monitoring period as well as in previous monitoring periods, Field Services supervisors on occasion initially misclassify Level 2 uses of force as Level 1 uses of force. Similar to potential adverse impact of having Field Services supervisors initially misclassify Level 2 uses of force as Level 1 uses of force, field supervisors on occasion incorrectly assess Level 1 uses of force as low-level control tactics (or officers do not notify supervisors of their use of what they perceive to be low-level control tactics (LLCT).

The monitoring team has long recommended that APD focus attention on officer actions at the lower end of their force reporting responsibilities since, in those instances, there is a greater reliance on an officer's self-assessment of their actions and, specifically, whether those actions rise to the level of a reportable use of force. In these instances, officers are required to document the use of LLCTs in their reports but not notify the chain of command following the use of LLCTs during an arrest. Therefore, an officer's actions are not routinely supervised as closely as incidents in which Level 1 Use of Force (or above) is reported. For these reasons, the monitoring team requested incident case numbers in the last two monitoring periods in which officers reported LLCTs during an

arrest, but there was no accompanying reported use of force.[33] A review of these data during the last two monitoring periods noted instances in which officers either did not notify supervisors to assess their physical handling of subjects or they did notify a supervisor and the supervisors failed to properly assess the officers' handling of interactions with civilians. Since then, APD has put additional safeguards in place, inclusive of audits and special orders regarding how to handle the review of such matters.

The monitoring team followed up with APD on a LLCT case from IMR-18 that was actually a Level 2 use of force that was misclassified as a LLCT by field supervisors.[34] The level of force in this case (empty hand control) was deemed to be in policy (consistent with the monitoring team's observations). However, APD initiated an Internal Affairs Request (IAR) based upon field supervisors misclassifying this use of force case in the field. The ensuing internal affairs investigation did not investigate the on-scene supervisors for failing to classify the force as a Level 2 use of force due to the injury sustained to the subject. The monitoring team considers this to be a significant oversight. The IA investigation focused on the responding Level 1 investigator and responding Level 1 supervisor's misclassification of the force used. The investigation determined that policy violations on the part of the responding Level 1 supervisor were unfounded because "there was no clear and concise documentation for the pilot program of the Level 1 use of force team regarding call-out requirements and procedures. [The sergeant's] responsibility at the hospital was to assist in classifying force and not conduct the investigation." The Level 1 investigator had a policy violation sustained for failing to appropriately classify the force. Noteworthy in the investigation is the fact that when the IA investigator summarizes, in part, the Level 1 investigator's interview, the IA investigator noted the Level 1 investigator "generally reviews OBRD from time of contact to the moment handcuffs are applied then stops the review." The monitoring team has long advised APD that this was a problematic practice of minimizing its OBRD reviews. In reviewing the disposition of the IA investigation, two commanders concurred with the recommendation of a written reprimand for the investigator. However, documents from the Pre-Determination Hearing (PDH) revealed the hearing officer determined that he would not hold the investigator accountable for the sustained policy violation because the investigator was not a supervisor and opined that the policy only applied to supervisors. The monitoring team recognizes this event occurred in a Level 1 Pilot area. However, APD opined here that nobody had any culpability as responsible for the misclassification oversight. The monitoring team takes cognizance that the training materials for Level 1 investigators and supervisors for the Level 1 Pilot Program noted that "while Level 1 Investigators will be called to investigate a use of force classified as a Level 1 by the on-scene Field Supervisor, the Level 1 Investigator will also be required to correctly classify the force following a robust on-scene investigation." This robust investigation did not occur, and APD opined that nobody can be held responsible.

[33] Based on previous technical assistance, PMU began pilot audits of such cases in which an arrest occurs for resisting arrest or assault of a police officer, since these types of events would have a higher probability of force being used. This is not to say they can't occur without force being applied, but some measure of audit of these cases would mitigate the risk of force not being properly reported.
[34] LLCT Case #2 designated as IMR-18-39.

During the IMR-19 review period, the monitoring team randomly selected four LLCT cases and was provided with reports and relevant OBRDs for those cases. We also conducted reviews to confirm that the officers' reported actions were LLCTs, not a higher level of force.

In [IMR-19-46], the monitoring team reviewed a reported arrest of a female subject for assault against a household member. While at the MDC, the subject was interacting with a nurse during processing, and the subject became loud and verbally abusive after the nurse instigated the interaction.[35] The subject stood up and aggressively approached the nurse, who was sitting in the same room. The officer used appropriate low-level control tactics to turn the subject away from the nurse, handcuffed her, and returned her to a holding area. The subject was charged with additional crimes due to her interaction with the nurse. We noted that while at the MDC, the officer demonstrated a constant lack of appropriate control and supervision of the suspect he arrested. While in a holding area, he unhandcuffed the suspect, turned his attention away from her, and left her unattended in the area for extended periods of time. [36] The casual way arrestees are dealt with by APD officers when in custody has been addressed in past monitoring reports. We have previously commented about several suspect escapes and uses of force that resulted from poor control of people in custody. Though a supervisor was called and reported to the scene to categorize the actions of the officer, there is nothing we saw or anything in the record provided to the monitoring team to suggest that these issues were properly addressed.[37]

In [IMR-19-44], APD officers were checking the identities of several individuals trespassing outside of a business that had a posted no trespassing sign when one of the female subjects was determined to have an active felony warrant. Officers approached the subject and advised her of the status of the warrants and that she was under arrest. She immediately stood up and began arguing/debating with officers about the merits of the warrant and their authority to arrest her on it. At least three officers moved in to attempt to handcuff her behind the back when she began to fall/pull away and spin around while tensing up her arms and, at times, holding one arm very close to her so she could not be handcuffed. Once officers began moving her arms behind her back, she immediately sat on the ground after having refused to initially do that when officers first told her to have a seat. Officers then stood her back up by grabbing onto the upper part of each arm and moving her arms behind her back for handcuffing. During this entire time, the subject continuously kept saying "ow" and "you're hurting me." These complaints of pain started as soon as the officers touched her when they were not using any force. The subject told officers to get away from her because she couldn't breathe, although she was not having any difficulty breathing and continuing to talk to officers frantically. She also said they weren't real cops.

---

[35] Later the monitoring team noted the nurse talking to the officer, where she said to the officer "Even if I was talking ****, which I probably was, she still can't put her hands on people."
[36] There were two male subjects in the same vicinity also unhandcuffed. The officer joked when the suspect entered a bathroom and locked the door after she had been asked to provide a urine sample. He learned only after the suspect was in the bathroom that the people present did not have a key.
[37] The monitoring team communicated these observations to APD for their appropriate action.

When officers attempted to walk her to an APD vehicle, she began putting her feet out in front of her, bracing herself so that she couldn't be walked to the car. As the officers walked her to the vehicle, she was handcuffed behind her back, and officers at times held her arms and wrists in awkward positions that were certainly capable of causing injury. When they got her to the APD vehicle, she also used her foot to brace herself from entering the right rear seat of the vehicle, necessitating officers to manipulate her to get her into the vehicle. Officers requested medical assistance and a supervisor. When the sergeant arrived on the scene, he appeared to watch one of the three involved officers' videos. The sergeant tells the officer whose video he watched, "what I see is that everything she is doing is on her own." It is clear to the monitoring team that she was not lifting her own arms above the mid-point of her own back when being pushed during the officers' escorting of her to their vehicle. This was being done by officers who were appropriately attempting to overcome her passive resistance to walk towards the car. Ambulance personnel who had arrived and spoke with the subject (who was seated in the vehicle's rear seat) advised the responding sergeant that she wanted to go to the hospital by ambulance. The sergeant advised them that officers would take her to the hospital because she was already in custody and seat belted in the car. The sergeant stated he had had this argument and discussion before with AFR and the captain of the ambulance personnel. The sergeant then told the ambulance personnel that he just watched a video and "she's violent; she's going to be violent the second she gets in there..." It should be noted that the subject was not violent. She resisted and was disruptive towards the officers completing a lawful arrest, but was not violent. The sergeant spoke with a lieutenant by telephone and advised him that he did not want her to go with the ambulance and switch cuffs to the front as per the ambulance crew's protocol. The lieutenant seemed to support this determination. The sergeant then spoke with what sounded like an on-call member of the Level 1 team about the actions of the officers and subject.

The monitoring team understands that the sergeant was attempting to protect the subject from becoming more disruptive, showing concern for the ambulance personnel and the officers. He indicated that once somebody is in custody and seated in their car, APD does not allow them to get transported by ambulance with their handcuffs in front of them. It should be noted that the monitoring team has observed voluminous OBRD videos where subjects in custody are removed from APD vehicles and transported by ambulance either handcuffed in the front of their bodies or with no handcuffs if they were being strapped down to the stretcher. The sergeant was diligent about getting feedback in classifying the force used against the subject and was very professional in dealing with the ambulance personnel. However, based upon statements the sergeant made, his decision to not allow the subject to go with the ambulance was partially driven by losing a uniformed officer to ride in the ambulance.

The monitoring team finds the sergeant's characterization of the subject being "violent" as not fully supported by what is depicted on the officers' OBRD. Additionally, watching only one video while on-scene may not have afforded the sergeant a very good view of the techniques used by the officers when forcibly walking the subject to their vehicle. Furthermore, a fresh cut was apparently not detected on the subject's left wrist. This

does not appear to be visible prior to the subject being handcuffed but is visible after she is handcuffed and continues to struggle while being moved by the officers.

We note that Para. 12KK of the 3rd restated CASA indicates: "'Passive resistance' means non-compliance with officer commands that is *nonviolent* [emphasis added] and does not pose an imminent threat to the officer or the public. Bracing, tensing, linking arms, or verbally signaling an intention to avoid or prevent being taken into custody constitute passive resistance." This definition accurately describes the actions of this individual (absent the linking of arms). This SOP also indicates that low-level control tactics "do not include overcoming active resistance." It is the opinion of the monitoring team that subjects who are violent, as depicted by the sergeant's statements to the ambulance personnel, are generally displaying active resistance, not passive resistance, as in this case. If the sergeant truly thought the subject was offering active resistance and was violent, and the officers' actions had to overcome the subject's active resistance and violence, then a determination that the officers utilized LLCT was inappropriate when considering the SOP language that LLCT "do not include overcoming active resistance."

Pursuant to SOP 2-53-3-Y, Low-Level Control Tactic is defined as "a physical interaction used to move or guide an individual that does not cause pain, is not reasonably likely to cause any pain or injury, and does not cause a complaint of injury…" The subject, in this case, was consistently yelling about being in pain (real or imagined is difficult to determine). However, the manner in which her arms were held above the mid-point of her back while being pushed during the officers' escorting her to their vehicle is certainly likely to cause pain or injury. Additionally, the fresh cut on the subject's left wrist appears to have resulted from her struggling with the officers. For these reasons, the officers' handling of this person charged with resisting arrest (amongst other felony charges) is not a Low-Level Control Tactic.

After the close of the IMR-19 reporting period, APD fully cooperated with the review of this case. APD reclassified the incident as a Level 2 Use of Force and initiated an IAFD investigation. Finally, during their assessment and investigation of this case, APD will determine if IARs will be initiated for the officers or supervisors due to the failure to report force and properly classify this case. This case will be revisited by the monitoring team in IMR-20.

It is the collective opinion of the monitoring team that APD should analyze the aforementioned case facts to determine if any gaps exist in their training in assessing these SOP definitions in the field. Additionally, field supervisors often need to view more than one OBRD video on-scene to make proper determinations. This needs to be stressed in training. Finally, the monitoring team has previously commented on how field personnel need to objectively transmit case facts telephonically to supervisors and on-call personnel when asking for guidance in making their determinations about officer actions that may or may not constitute force.

Due to the recurring observations made during the review of LLCT cases during the last three monitoring periods, the monitoring team will draw a significantly larger number of LLCT cases for review during the next monitoring period. APD, which has been working

on various ways to more accurately capture and review the use of LLCTs in the field, has met with representatives of a technology company that handles its reporting system to work on a solution to capture the appropriate LLCT data more uniformly. Shortly after the close of IMR-19, APD has an updated report form that is now available in a test environment. APD is also working on a script for a PowerDMS video that will be disseminated to APD personnel to inform them of this new report feature as a mechanism for uniformly reporting the use of LLCT by field personnel. This will enhance the ability of APD to identify and review the use of LLCTs.

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

Paragraph 41 stipulates:

> **"Uses of force will be divided into three levels for reporting, investigating, and reviewing purposes. APD shall develop and implement a use of force reporting policy and Use of Force Report Form that comply with applicable law and comport with best practices. The use of force reporting policy will require officers, once the scene is secure, 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 an unreported use of force by another officer will immediately report the incident to an on-duty supervisor. This reporting requirement also applies to off-duty officers engaged in enforcement action."**

Results

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

4.7.20 Assessing Compliance with Paragraph 42

Paragraph 42 is self-monitored by APD.

4.7.30 Assessing Compliance with Paragraph 43

Paragraph 43 stipulates:

> **"APD officers' failure to report incidents involving use of force or prisoner injury shall subject officers to disciplinary action."**

Results

Primary: **In Compliance**

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

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

Paragraph 44 stipulates:

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

Results

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

4.7.32 Assessing Compliance with Paragraph 45: OBRD Recording Regimens

Paragraph 45 is self-monitored by APD.

4.7.33 Assessing Compliance with Paragraph 46: Force Investigations

Paragraph 46 stipulates:

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

Results

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

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

Paragraph 47 stipulates:

> **"The quality of force reviews shall be taken into account in the performance evaluations of personnel performing such reviews."**

Results

The Compliance and Oversight Division has implemented a program regarding the requirement to hold supervisors accountable for the quality of use-of-force investigations by using their performance evaluation processes to assess their use-of-force reviews. Ongoing audits determine whether supervisors properly document failures to conduct force investigations during their performance evaluations of line officers. APD submitted a supervisory training program to ensure all requirements were understood, and this process was approved by the monitor and completed during the IMR-17 monitoring period. The Performance Evaluation and Management System (PEMS) unit developed an audit process to analyze the number of deficient use of force investigations.

During Checkpoint 1 of this reporting period, five investigations into deficient use of force investigations were completed, resulting in two sustained violations. Dispositions for both resulted in written reprimands. One lieutenant failed to document the sustained violation in the sergeant's employee work plan, resulting in a referral to Internal Affairs.

During Checkpoint 2 of this reporting period, APD submitted documentation indicating no deficient use of force investigations of the 202 cases investigated by IAFD (150 cases), the Level 1 Team, and the Area Commands/Division (52 cases).

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

4.7.35 Assessing Compliance with Paragraph 48: Force Classification Procedures

Paragraph 48 stipulates:

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

a. Level 1 is force that is likely to cause only temporary pain, disorientation, or discomfort during its application as a means of gaining compliance. This includes techniques which are not reasonably expected to cause injury, do not result in actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing). Empty-hand takedowns that do not result in injury or complaint of injury are reportable as Level 1 force. Pointing a firearm, beanbag shotgun, or 40 millimeter launcher, or ECW at an individual as a show of force are reportable as Level 1 force. Level 1 force does not include interaction meant to guide, assist, or control an individual who is offering minimal resistance.

b. Level 2 is force that causes injury, could reasonably be expected to cause injury, or results in a complaint of injury greater than temporary pain. Level 2 force includes: discharge of an ECW, including where an ECW is fired at an individual but misses; use of a beanbag shotgun or 40 millimeter launcher, including where it is fired at an individual but misses; OC Spray application; takedowns that result in injury or complaint of injury; other empty-hand techniques (i.e., strikes, kicks, or leg sweeps); and strikes with impact weapons, except strikes to the head, neck, or throat, which would be considered a Level 3 use of force.

c. Level 3 is force that results in, or could reasonably result in, serious physical injury, hospitalization, or death. Level 3 force includes all lethal force; critical firearms discharges; all head, neck, and throat strikes with an object; neck holds; canine bites; three or more uses of an ECW on an individual during a single interaction regardless of mode or duration or an ECW discharge for longer than 15 seconds, whether continuous or consecutive; four or more strikes with a baton; any strike, blow, kick, ECW discharge, or similar use of force against a handcuffed individual; and uses of force resulting in a loss of consciousness."

Results

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

4.7.36 Assessing Compliance with Paragraph 49

Paragraph 49 stipulates:

> **"Level 1 uses of force that do not indicate apparent criminal conduct by an officer will be reviewed by the chain of command of the officer using force or by personnel assigned to conduct those reviews. Level 2 and 3 uses of force shall be investigated by the Internal Affairs Division, as described below. In cases where there are indications of apparent criminal conduct, the reviewer or investigator shall refer the use of force to the Multi-Agency Task Force to conduct a criminal investigation. When a use of force or other incident is under criminal investigation by the Multi-Agency Task Force, APD's Internal Affairs Division will conduct the administrative investigation. Pursuant to its Memorandum of Understanding, the Multi-Agency Task Force shall periodically share information and coordinate with the Internal Affairs Division, as appropriate and in accordance with applicable laws, to ensure timely and thorough administrative investigations of uses of force. Refer to Paragraphs 81-85 and the Multi-Agency Task Force Memorandum of Understanding for referrals of officer-involved shootings to the Multi-Agency Task Force."**

Results

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

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

Paragraph 50 stipulates:

> **"The supervisor of an officer using force shall respond to the scene of all Level 1, 2, and 3 uses of force to ensure that the use of force is classified according to APD's force classification procedures. For Level 2 and Level 3 uses of force, the supervisor shall ensure that the Force Investigation Section of the Internal Affairs Division is immediately notified and dispatched to the scene of the incident to initiate the force investigation. The supervisor shall also provide a written order instructing involved and witness officer(s) to the use of force that they are not to speak about the force incident with other officers until they are interviewed and/or provide a statement about the force incident.**

Results

One case had two items out of compliance.

Primary: **In Compliance**

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

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

Paragraph 51 stipulates:

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

Results

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

4.7.39 Assessing Compliance with Paragraph 52: Supervisory Force Review

Paragraph 52 stipulates:

> **"For all reviews of Level 1 uses of force, the supervisor or reviewer shall:**
>
> **a) respond to the scene and immediately identify the officer(s) involved in Level 1 use of force;**
>
> **b) review the involved officer's OBRD video to verify that the incident involves a Level 1 use of force;**
>
> **c) review the OBRD video of other officers on-scene where uncertainty remains about whether the incident rises to a Level 2 or Level 3 use of force;**
>
> **d) examine personnel and the individual for injuries and request medical attention where appropriate.;**
>
> **e) contact the Internal Affairs Division to conduct a Level 2 or Level 3 use of force investigation if OBRD video does not affirm a Level 1 use of force;**
>
> **f) gather any evidence located at the scene of the Level 1 use of force;**
>
> **g) capture photographs of the officer(s) and individual involved in the Level 1 use of force;**
>
> **h) require the submission of a Use of Force Report from the involved officer by the end of shift; and**

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

Results

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

4.7.40 Assessing Compliance with Paragraph 53: Force Review Timelines

Paragraph 53 is self-monitored by APD.

4.7.41 Assessing Compliance with Paragraph 54: Command Review of Force

Paragraph stipulates:

"Upon completion of the review, the reviewer will submit it up the chain of command. The unit supervisor shall review the entry to ensure that it is complete and that the findings are supported using the preponderance of the evidence standard. The unit supervisor shall order additional review when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability or credibility of the findings. These reviews shall be completed electronically and tracked in an automated database within the Internal Affairs Division."

Results

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

4.7.42 Assessing Compliance with Paragraph 55: Force Review Evidence Standard

Paragraph 55 stipulates:

"Unit supervisors or Commanders shall be responsible for the accuracy and completeness of Level 1 force reviews."

Results

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

4.7.43 Assessing Compliance with Paragraph 56: Force Review Quality

Paragraph 56 stipulates:

> **"Where a reviewer repeatedly conducts deficient force reviews, the reviewer shall receive the appropriate corrective and/or disciplinary action, including training, demotion, and/or reassignment, 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 reviewer, unit supervisor, or Commander finds evidence of a use of force indicating apparent criminal conduct by an officer, the reviewer, unit supervisor, or Commander shall suspend the supervisory force review immediately and notify the Internal Affairs Division and the Chief. The Force Investigation Section of the Internal Affairs Division shall immediately initiate the administrative and criminal investigation."**

Results

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

4.7.44 Assessing Compliance with Paragraph 57

Paragraph 57 stipulates that:

> **"When the Commander or the reviewer's supervisor finds that the force review is complete and the findings are supported by the evidence, the file shall be forwarded to the Compliance and Oversight Division. APD shall periodically conduct audits of Level 1 force reviews. These audits shall assess adherence to APD policy, training, equipment, or tactical concerns. APD shall refer any policy, training, equipment, or tactical concerns to the appropriate unit within APD to ensure that the concerns are resolved."**

Results

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

4.7.45 Assessing Compliance with Paragraph 58: Reassignment of Force Review

Paragraph 58 stipulates that:

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

Results

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

4.7.46 Assessing Compliance with Paragraph 59: Abuse of Force Discipline

Paragraph 59 stipulates:

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

Results

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

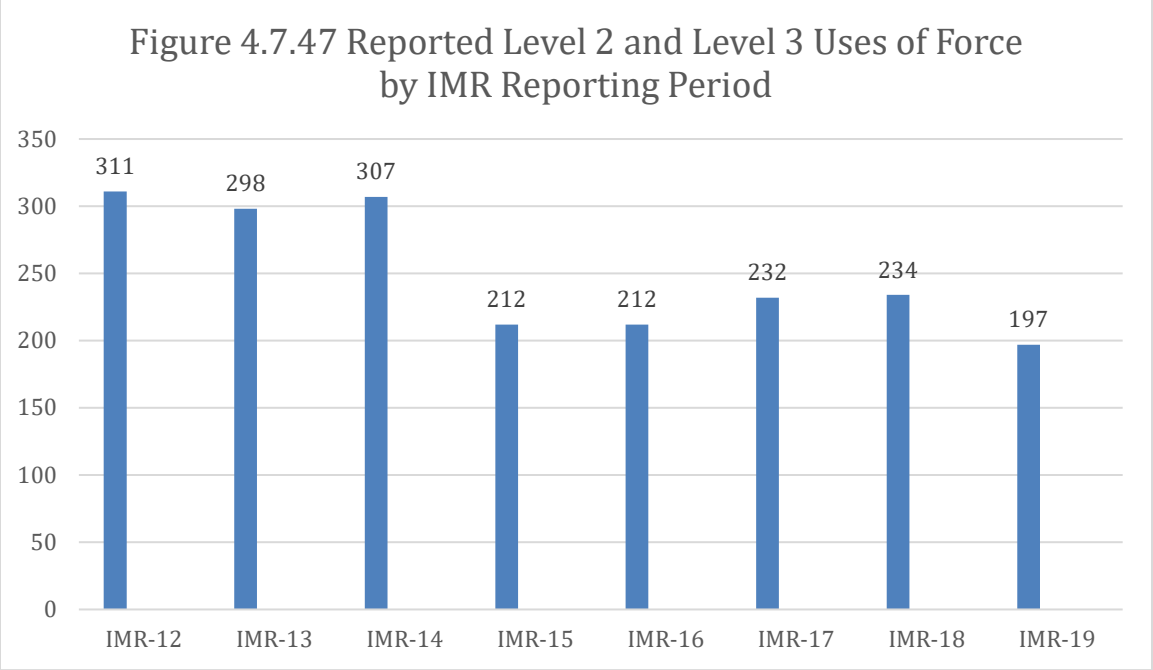
4.7.47 - 4.7.64 Assessing Compliance with Paragraphs 60-77: Force Investigations by the Internal Affairs Division

Since July 2021, the external force investigation team (EFIT) has been working with APD's Internal Affairs Force Division (IAFD) members to conduct Level 2 and Level 3 force investigations involving APD personnel. Under the Stipulated Order approved by the Court in 2021, EFIT may conduct these force investigations with or, if certain conditions are present, independent of APD personnel. EFIT began responding to Level 2 and Level 3 force investigations on July 16, 2021[38]. The monitoring team met with and worked closely with members of the EFIT executive team during their preliminary processes. While the appendices for this section of the report will critically examine the

[38] The fourteenth monitoring period ended on July 31, 2021.

cases investigated by IAFD/EFIT during this monitoring period, the monitoring team takes cognizance of the significantly improved progress (in both punctuality and quality) achieved by EFIT and APD in investigating and managing Level 2 and Level 3 use of force cases. We note that as of December 5, 2023, EFIT officially transitioned out of the active participation and oversight of new Level 2 and Level 3 use of force cases.

During the IMR-19 reporting period (data current through February 2024), APD recorded a combined 197 Level 2 and Level 3 use of force cases, a decrease of 37 cases from IMR-18. During the IMR-18 reporting period, APD recorded a total combined 234 Level 2 and Level 3 use of force cases, an increase of two cases from IMR-17. During IMR-17, APD recorded a combined 232 Level 2 and Level 3 use of force cases, an increase of 20 cases from IMR-16. During IMR-16, APD recorded a combined 212 Level 2 and Level 3 use of force cases, the same number of cases as in IMR-15. Figure 4.7.47 below depicts the numbers of Level 2 and Level 3 cases generated by APD during the IMR-12 through IMR-19 reporting periods. These data indicate a significant reduction in the levels of more serious uses of force by APD over a multi-year period. Data for this multi-year period indicate that for the IMR 12-14 reporting periods, the number of uses of force held relatively steady between 298-311 uses of force. The number of reported uses of force by APD personnel decreased dramatically, dropping by 95 cases to 212 uses of force in the 15th and 16th reporting periods, compared to 307 uses of force in the 14th reporting period. This continues to be a welcome change to the earlier data, which held steady in the 300+ range. These data are depicted in Figure 4.7.47.



The reported Level 2 and Level 3 uses of force for IMR-19 have been down approximately 37 percent since the monitor's 12th report. We consider these numbers to be significant.

One of the CASA implementation requirements to reach an operational compliance finding is that use of force cases must be completed within 120 days. While APD has historically struggled to complete cases within the allotted time, the past four monitoring periods generated excellent completed case timelines.

During IMR-19, IAFD opened 148 Level 2 cases and 49 Level 3 cases. IAFD, working alongside EFIT for two-thirds of this monitoring period, completed 165 Level 2 cases, with 164 of the cases completed within 90[39] days of the use of force. The one case not completed within 90 days of the use of force was initially misclassified by Field Services personnel.[40] The misclassification of this case was more particularly discussed in IMR-18. However, it is important to note that IAFD completed its investigation into this use of force within 90 days of receiving the case.

At the close of the 19th monitoring period, IAFD had completed 57 of the 148 Level 2 use of force cases opened during the 19th monitoring period. There were still 91 open Level 2 cases that had not been completed when the monitoring period closed on January 31, 2024. These cases will be examined during the 20th reporting period. We note that at the close of IMR-18, there were still 105 open Level 2 cases (opened during IMR-18 and not completed during that monitoring period). The monitoring team revisited those 105 open cases during IMR-19 and noted that all of the cases were closed during this reporting period and within 90 days of the occurrence of the use of force.

The same holds for Level 3 use of force cases. During this 19th monitoring period, EFIT and APD completed 56 Level 3 cases, with all 56[41] completed within 90 days of using force. We note that at the close of the 19th monitoring period, IAFD completed 22 of the 49 Level 3 use of force cases opened during the 19th monitoring period. There were still 27 cases opened during the monitoring period that had not been completed. These cases will be examined during the 20th reporting period. It should be noted that at the close of IMR-18, 26 Level 3 cases remained open (cases opened during IMR-18 and not completed during that monitoring period). The monitoring team reviewed those 26 open cases during IMR-19 and noted that all of the cases were closed during this reporting period and within 90 days of the occurrence of the use of force.

These data are shown in tabular form in Table 4.7.47a on the following page.

[39] For consistency in reporting, we use 90 days as outlined in the IAFD/EFIT Process Narratives indicated in footnote 33.

[40] An internal Affairs Request (IAR) was opened on this case.

[41] APD completed an additional eight cases carried over from the previous reporting period.

Table 4.7.47a Investigations of
Level 2 Use of Force Investigations: IMR-12 – IMR-19

Reporting period	# of Level 2 UoF Cases Initiated (Months 1-3) of the Rep. Period	# of Level 2 UoF Cases (Months 1-3) Completed within 90 days	Total # of Level 2 UoF Cases Initiated during the Rep. Period	Total # of Level 2 UoF Cases Opened, Investigated, and Completed within 90 days
IMR-19	53	53 (100%)	148	57 (39%)[42]
IMR-18	79	79 (100%)	190	85 (45%)[43]
IMR-17	96	96 (100%)	185	101 (55%)[44]
IMR-16	79	79 (100%)[45]	161	81 (50%)[46]
IMR-15	99	97 (98%)[47]	169	101 (60%)[48]
IMR-14	117	1 (0.9%)	216	1 (0.5%)
IMR-13	126	3 (2%)	244	3 (1%)
IMR-12	108	97 (90%)	232	106 (46%)

[42] IAFD completed a total of 165 cases during IMR-19 (regardless of when the cases were opened) with 164 of the cases completed within 90 days of the use of force. The one case not completed within 90 days of the use of force occurring was more particularly discussed in IMR-18 and noted above in this current report. It should be noted that irrespective of when IAFD received this case, the case was completed within 90 days of IAFD's receipt of the case.

[43] IAFD completed a total of 169 cases during IMR-18 (regardless of when the cases were opened) with 166 of the cases completed within 90 days of the use of force. Two of the three cases not completed within 90 days of the use of force occurring were misclassified initially by Field Services personnel. The third case was not a matter of a misclassification of force, but a case of alleged unreported use of force. It should be noted that irrespective of when IAFD received these three cases, each of these three cases were completed within 90 days of IAFD's receipt of the cases.

[44] IAFD completed a total of 180 cases during the IMR-17 reporting period (regardless of when the case was opened), and 177 were closed within 90 days. The three cases not completed within 90 days were misclassified initially by Field Services personnel, which contributed to the case not being completed within 90 days of the occurrence of the use of force. IAFD completed the cases within 90 days of receiving the cases. This is addressed pursuant to Paragraph 50.

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

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

[47] One case was determined to not be a force case and one case involved a criminal referral handled by IAPS from the onset outside of the purview of IAFD and EFIT.

[48] Sixty-eight of the 73 cases that were still active (not completed) at the end of the monitoring period had not yet reached their respective 90-day threshold.

Table 4.7.47b Investigations of
Level 3 Use of Force Investigations: IMR-12 – IMR-19

Reporting period	# of Level 3 UoF Cases Initiated (Months 1-3) of the Rep. Period	# of Level 3 UoF Cases (Months 1-3) Completed within 90 days	Total # of Level 3 UoF Cases Initiated during the Rep. Period	Total # of Level 3 UoF Cases Opened, Investigated, and Completed within 90 days
IMR-19	22	22 (100%)	49	22 (45%)[49]
IMR-18	18	18 (100%)	44	18 (41%)[50]
IMR-17	27	27 (100%)[51]	47	28 (60%)[52]
IMR-16	26	26 (100%)[53]	51	26 (49%)[54]
IMR-15	30	30 (100%)	43	30 (80%)[55]
IMR-14	42	0 (0%)	91	0 (0%)
IMR-13	37	2 (5%)	54	2 (4%)
IMR-12	25	21 (84%)	79	24 (30%)

As noted, evidence reveals that productivity levels from earlier monitoring periods have completely reversed and continue to stabilize at acceptable levels for case completion. We are aware that this reversal was achieved with external assistance from EFIT. Nonetheless, the progress made during IMR-15, IMR-16, IMR-17, AND IMR-18 has been maintained during this reporting period. The issue that has been a significant concern for the monitor is how APD plans to adapt to workloads, case quality standards, and case management practices once EFIT is no longer a part of the case workload process. Since EFIT has recently been transitioned out of the oversight of new IAFD cases and is now only reviewing legacy backlogged cases, IAFD now has the sole responsibility and oversight (along with the APD executive staff) of investigating and managing the caseload of Level 2 and Level 3 uses of force.

[49] IAFD completed a total of 56 Level 3 cases during IMR-19 (regardless of when the cases were opened).

[50] IAFD completed a total of 37 Level 3 cases during IMR-18 (regardless of when the cases were opened).

[51] IAFD closed two cases within 90 days of receiving them, but the classification errors made by Field Services personnel contributed to one case not being completed within 90 days of the occurrence of the use of force, and the other case was originally closed within 90 days by IAFD, but was reopened, which resulted in its actual completion date extending to 125 days after the use of force occurred.

[52] IAFD completed a total of 54 Level 3 cases during IMR-17 (regardless of when the case was opened).

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

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

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

As always, the monitoring team is available to provide feedback to APD about how best to optimize the ways they address their caseload.

EFIT is now solely focusing on the backlogged IAFD investigations. At the end of this monitoring period, EFIT had only 114 of these 667 backlogged investigations pending. EFIT investigators assigned to IAFD have been reassigned to handle the backlogged cases. EFIT has four teams (each consisting of a supervisor and three investigators) assigned to handle these cases. EFIT continues to provide status reports on a weekly basis to the Department of Justice and the monitoring team. We anticipate that EFIT will complete its review of these backlogged cases during the next reporting period.

The monitoring team conducted a review of Level 2 and Level 3 uses of force drawn from samples taken throughout the reporting period. Cases involving an ECW are evaluated here as well as in Paragraphs 24 and 29 of this report. Level 1 uses of force often occur with Level 2 and Level 3 uses of force. Therefore, some Level 1 uses of force are also assessed in the section of this report that focuses on Level 2 and Level 3 uses of force.

Appendices B1 and B2 contain the results of the monitoring team's review of 27 Level 2 and Level 3 UoF cases.

Observations and Comments

A review of case [IMR-18-07] during the last monitoring period revealed that APD investigative personnel were surveilling a stolen vehicle before deploying a Grappler device to disable the vehicle. Once deployed, the vehicle made a sharp turn and flipped onto its side. IAFD responded to the scene and conducted the investigation because of the use of the Grappler device and the minor injuries sustained by the two suspects. One suspect was transported to the hospital. After conducting a review of the Grappler device's training and technical information, IAFD determined the use of the Grappler system is not a use of force. The monitoring team did not concur with that determination. During the IMR-19 reporting period, APD reviewed this case and the monitoring team's findings. As a result, APD is putting into place a procedure for supervisory assessment and reporting of Grappler deployments and the evaluation of any injuries associated with the device's use. This will necessitate, as appropriate, an IAFD response for Level 2 or Level 3 uses of force based on any injuries sustained and any other applicable determinants. The monitoring team will review any APD special orders and procedures put into place relevant to the Grappler device during the next reporting period.

The monitoring team has noticed three types of notable occurrences over the course of all of the cases reviewed during this monitoring period. These occurrences have had varying impacts on the quality of case investigations and their related compliance ratings.

Firstly, field supervisors need to ensure they conduct diligent inspections for injuries on use of force subjects. For example, mere observation of a subject through the window of an APD vehicle impedes an accurate assessment of injuries.

Secondly, field supervisors need to be more diligent in identifying witnesses by name on the scene of use of force incidents. This includes putting more effort into asking witnesses to provide a written statement. Additionally, determinations of who constitutes a witness in a use of force case should not be limited to persons who merely observe[56] a use of force. Additionally, what a person sees, hears, or smells before a use of force (or even after a use of force) can be important to determine whether or not a lawful objective existed. Other salient issues include whether an officer gave commands before or during the resistance or flight of a subject, post-use of force actions, etc. APD has indicated they have made similar observations and addressed this issue with IAFD investigators and supervisors. The monitoring team will review these efforts during the next monitoring period.

Finally, APD officers should be more attentive to arrestees in their custody. The monitoring team has observed more attempts of arrestees to escape custody for several reasons. This is especially prevalent when arrestees are at hospitals. In one case during this monitoring period, a person charged with homicide after being taken into custody following a full SWAT activation was brought to the hospital. The arrestee was seated in a chair in the hospital emergency room adjacent to the door while handcuffed in front of body. This homicide suspect got up from the chair and ran out of the hospital. The single officer assigned to maintain custody of this homicide arrestee chased him for several hundred feet outside of the hospital before the subject acquiesced to the officer's command to stop (in addition to having no other place to run). Fortunately, no force was used on the subject at this time.[57] A sergeant responded to the hospital to view the officer's OBRD to ensure that no force was used. APD did not provide any documentation that indicates an IAR was requested for allowing this subject to escape custody while handcuffed.

4.7.47 Assessing Compliance with Paragraph 60: IAFD Force Review

Paragraph 60 stipulates that:

> **"The Internal Affairs Force Division shall respond to the scene and conduct investigations of Level 2 and Level 3 uses of force, uses of force indicating apparent criminal conduct by an officer, uses of force by APD personnel of a rank higher than sergeant, critical firearms discharges, or uses of force reassigned to the Internal Affairs Force Division by the Bureau of Police Reform. In cases where an investigator in the Internal Affairs Force Division initiates a Level 2 or Level 3 use of force investigation and identifies indications of apparent criminal conduct, the Division shall refer the apparent criminal conduct to the Criminal Investigations Division. The criminal**

[56] The term *observation* here does not mean merely seeing. What a person hears or smells, for example, can be just as relevant as what somebody can see in a use of force case.

[57] The monitoring raises this issue here because this type of escape has been cited a number of times in previous monitoring reports and those escapes have frequently resulted in additional uses of force.

investigation shall remain separate from and independent of any administrative investigation. In instances where the Multi-Agency Task Force is conducting the criminal investigation of a use of force, the Internal Affairs Division shall conduct the administrative investigation."

Results

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

4.7.48 Assessing Compliance with Paragraph 61

Paragraph 61 stipulates:

"The Internal Affairs Force Division shall include sufficient personnel who are specially trained in administrative investigations."

Results

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

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

Paragraph 62 stipulates:

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

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

Results

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

4.7.50 Assessing Compliance with Paragraph 63: Investigating Level 2 and Level 3 Uses of Force

Paragraph 63 stipulates:

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

Results

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

4.7.51 Assessing Compliance with Paragraph 64: Training Force Division Personnel

Paragraph 64 stipulates:

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

Results

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

4.7.52 - 4.7.55 Assessing Compliance with Paragraphs 65 - 68: Referral of Force Investigations to MATF

Paragraphs 65 – 68 are self-monitored by APD.

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

Paragraph 69 stipulates:

> **In conducting its investigations of Level 2 or Level 3 uses of force, as defined in this Agreement, the Internal Affairs Force Division shall:**
>
> a) **respond to the scene and consult with the on-scene supervisor to ensure that all personnel and individuals on whom force was used have been examined for injuries, that the use of force has been classified according to APD's classification procedures, that individuals on whom force was used have been given the opportunity to indicate whether they are in pain or have injuries, and that all officers and/or individuals have received medical attention, if applicable;**
>
> b) **review available on-body recording device video of the initial contact with the individual against whom force was used up to the point at which the individual is in custody on-scene. If an officer used force after an individual was in custody, the reviewer shall also review available OBRD video of any in-custody uses of force. The investigator shall have discretion not to review video that is irrelevant to the determination of whether the use of force complied with APD policy. This provision does not preclude the investigator from looking at additional video if necessary;**
>
> c) **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;**

d) ensure that a canvass for, and interview of, witnesses is conducted. In addition, witnesses should be requested to provide a video-recorded or signed written statement in their own words;

e) ensure, consistent with applicable law, that all officers witnessing a Level 2 or Level 3 use of force by another officer provide a use of force narrative of the facts leading to the use of force;

f) ensure that involved and witness officer(s) to the use of force have completed and signed a written order directing them not to speak about the force incident with other officers until they are interviewed by the investigator of the Internal Affairs Force Division;

g) conduct only one-on-one interviews with involved and witness officers;

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

i) 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;

j) 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;

k) record all interviews;

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

m) make all reasonable efforts to resolve material inconsistencies among the officer, individual, and witness statements, as well as inconsistencies between the level of force described by the officer and any injuries to personnel or individuals.

Results

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

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

Paragraph 70 is self-monitored by APD.

4.7.58 Assessing Compliance with Paragraph 71: FIS Investigative Timelines

Paragraph 71 stipulates:

> **"The Internal Affairs Force Division shall complete Level 2 or Level 3 administrative investigations within the applicable deadlines in the Collective Bargaining Agreement between the City and Intervenor. Any request for an extension to this time limit must be approved by the commanding officer of the Internal Affairs Force Division through consultation within the chain of command of the Bureau of Police Reform. At the conclusion of each use of force investigation, the Internal Affairs Force Division 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 Force Division'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 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 Force Division's narrative evaluating the use of force, based on the evidence gathered; and an assessment of the incident for tactical and training implications, including 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 officer history in the Internal Affairs Division database for the past five years.

Results

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

4.7.59 Assessing Compliance with Paragraph 72: FIS Report Review

Paragraph 72 stipulates:

> **"Upon completion of the Internal Affairs Force Division investigation report, the Force Investigation Section investigator shall forward the report through his or her chain of command to the commanding officer of the Internal Affairs Division. An Internal Affairs Division supervisor shall determine whether the officer's actions complied with APD policy and state and federal law. An Internal Affairs Division commanding officer shall review the report to ensure that it is complete and that the findings are supported using the preponderance of the evidence standard. An Internal Affairs Division commanding officer shall order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of the findings."**

Results

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

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

Paragraph 73 stipulates:

> **"For administrative investigations, where the findings of the Force Investigation Section investigation are not supported by a preponderance of the evidence, the Internal Affairs Division commanding officer shall document the reasons for this determination and shall include this documentation as an addendum to the original investigation report. The commanding officer of**

the Internal Affairs Division shall take appropriate action to address any inadequately supported determination and any investigative deficiencies that led to it. The Internal Affairs Division commanding officer shall be responsible for the accuracy and completeness of investigation reports prepared by the Internal Affairs Division."

Results

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

4.7.61 Assessing Compliance with Paragraph 74: IAFD Quality Control

Paragraph 74 stipulates:

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

Results

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

4.7.62 Assessing Compliance with Paragraph 75: IAD Quality Control

Paragraph 75 stipulates:

"When a commanding officer of the Internal Affairs Division determines that the force investigation is complete and the findings are supported by the evidence, the investigation report file shall be forwarded to the Force Review Board unit."

Results

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

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

Paragraph 76 is self-monitored by APD.

4.7.64 Assessing Compliance with Paragraph 77: Discipline on Sustained Investigations

Paragraph 77 stipulates:

> **"Where, after an administrative force investigation, a use of force is found to violate policy, the Bureau of Police Reform shall direct and ensure appropriate discipline and/or corrective action. Where a force investigation indicates apparent criminal conduct by an officer, the Bureau of Police Reform shall ensure that the Internal Affairs Division or the Multi-Agency Task Force consults with the District Attorney's Office or the USAO, as appropriate. The Bureau of Police Reform 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 or Bureau of Police Reform shall ensure that necessary training is delivered and that policy, tactical, or equipment concerns are resolved."**

Results

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

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

4.7.65 Assessing Compliance with Paragraph 78: Force Review Board Responsibilities

Paragraph 78 stipulates that:

> **"APD shall develop and implement a Force Review Board to provide management oversight of tactical activations and Level 2 and Level 3 uses of force. The Chief or their designee shall appoint the Force Review Board members. The Force Review Board shall:**
>
> **a) review all uses of lethal force, all in-custody deaths, and samples of other Level 3 uses of force, Level 2 uses of force, and tactical activations within 60 days of receiving the completed reports.**

b) hear the presentation from the Internal Affairs Division or Special Operations Division chain of command and discuss as necessary to gain a full understanding of the facts of the incident.;

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

d) document its findings and recommendations within 15 business days of the Force Review Board presentation; and

e) review and analyze use of force data, on at least a quarterly basis, to determine significant trends and take management action.

Methodology

In preparation for this report, the monitoring team attended FRB meetings to ensure they were being conducted in a manner that meets the requirements of this paragraph. We also reviewed six specific cases the FRB heard during this monitoring period,[58] discussed the FRB with APD personnel responsible for administering FRB meetings, and requested additional relevant data that the department provided.

Results

At the close of IMR-18, APD's updated Force Review Board SOP 2-58 (Formerly 2-56) was still pending, and we were told that the policy was moving through the approval process. The updated SOP 2-58 was approved by the monitor and promulgated on January 30, 2024. The delay had been linked to APD addressing the 3rd Amended CASA requirements and the desire to incorporate an approved methodology for selecting cases for the FRB.[59]

In IMR-17 and IMR-18, we documented serious concerns with the FRB and the handling of certain cases that were presented to them. We will not repeat our concerns; however, we encourage APD to reflect on our previous comments to help inform future decisions

[58] The monitoring team requested a ledger of cases that the FRB had heard (to November 2, 2023) during this reporting period. The ledger listed 19 separate Level 2/3 cases (including four officer involved shooting cases) that were available for our review at that time. Based on observations communicated over past Monitor reports regarding officer involved shootings, the monitoring team selected all four OIS cases, and two additional cases that were selected randomly, representing a 32% sample of all the available cases. As we document later, data provided following the close of IMR-19 showed there were a total of 42 cases heard by the FRB across the entire monitoring period.

[59] We previously commented that APD's cycle of review for SOPs lacks timeliness and impacts the efficiency by which policy revisions are addressed administratively and communicated to officers through training. We asserted in IMR-18 that allowing policies to "go stale" is a critical threat to continued compliance. Policies related to high-risk critical tasks, e.g., use of force, powers of arrest, etc., must be monitored by APD on a routine basis and updated as required.

related to the FRB. The monitoring team reviewed the October 31, 2023, Interoffice Memorandum from the Deputy Chief of Accountability to the Chief of Police entitled, "Improvements for the Force Review Board". We viewed the contents of this memorandum ostensibly as a response to concerns raised in the past two monitoring reports. Within this memorandum were several improvement measures APD intended to implement regarding the FRB. The memorandum listed four areas where process changes would take place: (1) Officer Involved Shootings (OIS); (2) Out of policy cases; (3) Cases where there was disagreement between IAFD and EFIT[60]; (4) Any other cases considered high profile or of importance to the department. APD now requires one of two specific Deputy Chiefs to sit as the Chair of the meeting where a case that falls into the four categories is heard.[61] The memorandum also noted reviews the department has conducted of the performance of Board members to determine if they should remain on the FRB. APD documented that several members of the Board have been removed from actively participating on the Board.[62] The changes documented in the memorandum are noted by the monitoring team. However, the issues we have raised with reviews by the Board and findings in use of force cases by IAFD and the Board were obvious. None of these adjustments to the FRB can account for instances where the department fails in its responsibilities and stands by that failure. That said, our observations of the FRB under the chairmanship of the Deputy Chiefs named in the memorandum showed a marked improvement from the past two monitoring periods. APD must now make provisions for a time in the future when these two Deputy Chiefs may not be a part of the department and ensure that a strong culture of professionalism and accountability dictates the quality of the FRB. Its effectiveness cannot be dependent on specific people.

As noted in IMR-17, APD and its Academy created a two-day training program for new FRB members. This training was reviewed and previously approved by the monitoring team. That training initiative is meant for new APD personnel who may be called upon to serve as members of the FRB. In preparation for this report, we requested copies of training records for any APD executives who attended the training during this reporting period. There were no FRB training programs held during this monitoring period, as no new FRB members were added.

The FRB administrator documents case referrals generated during meetings, assigns deadlines for their completion, and tracks them until they are considered closed by the FRB. Meetings continued to have standard and professional opening comments, discussion of past referrals, and, when necessary, new due dates were assigned for referrals that are still pending.

---

[60] Since EFIT is no longer responding to or overseeing IAFD use of force cases, this aspect of the changes should be assessed and modified to reflect current internal approval processes.

[61] These two Deputy Chiefs are among the three the monitoring team has consistently recognized for their contributions to the FRB and their positive influence on the FRB over the past two years.

[62] The monitoring team will discuss this with APD during the next monitoring period to obtain information as to why Board members were removed, and the documentation associated with those removals.

The monitoring team was provided ledgers for FRB cases heard between August 1, 2023, and January 31, 2024. During this monitoring period, the FRB meetings generated 21 separate referrals sent out for follow-up by the relevant organizational units for tactics, equipment, training, and policy issues, and one instance in which a referral resulted in a misconduct investigation by Internal Affairs. Time is spent during each meeting to address the status of any previous (and pending) referrals to determine if appropriate action was taken.

To achieve compliance with Paragraph 78, APD must meet each of several requirements contained within the introductory paragraph and sub-paragraphs 78a – 78e. The introductory section of this paragraph includes two parts:

1. APD shall develop and implement a Force Review Board to provide management oversight of tactical activations and Level 2 and Level 3 uses of force.
2. The Chief or the Chief's designee shall appoint the Force Review Board members.

With respect to Item 1 above, APD has developed and implemented a Force Review Board (FRB) as required by this paragraph. This has been true for the past several years. Meetings we attended during the 19th monitoring period had the same features as we reported in the past, with scripted opening remarks and procedures to confirm that meeting procedures are standardized. Likewise, APD has met the requirement of Item 2 above by empaneling the FRB to review tactical activations and Level 2 and Level 3 uses of force. The Chair of the FRB asks each voting member if they have reviewed the case file materials in preparation for the meeting. Each member is required to acknowledge verbally if they have reviewed the materials. During this monitoring period, APD stopped the established practice of having each member of the FRB vote on individual case findings. The CASA does not require voting on each case, but the FRB's broad responsibility to "provide management oversight" of tactical activations and higher levels of use of force remains. In our view, the assessment of compliance of the FRB hasn't changed, but lost is the organization's ability to track the view an individual Board member may have on the appropriateness of force in each case.

As noted above, the FRB has to demonstrate it has met the requirement to "…provide management oversight" during the meetings they hold. This requirement is key to compliance and is the centerpiece of what the FRB is designed to accomplish. While we have chronicled major advances in APD's efforts in this regard over the past two years, we have also illuminated serious concerns as recently as IMR-17 and IMR-18. Our observation of APD's FRB during this reporting period has not revealed any of the issues noted over the past two monitoring periods. We believe this is (in part) due to the current chairman of the FRB, so APD must ensure the quality of the meetings continues to sustain compliance with the CASA.

The monitoring team chose six cases that the FRB heard during the first three months of the monitoring period, representing 32 percent of the cases available then. For purposes of this report, our compliance assessment of APD's performance to "…provide

management oversight" of tactical and use of force cases, as well as Paragraphs 78a, 78b, 78c and 78d were included in our case reviews.[63]

Table 4.7.65, on the following page, summarizes our reviews of the use of force cases discussed above.

[63] We note that APD met the requirements of 78e, which are not case-specific and, therefore, not included in the chart. However, 78e findings were included in the calculation for Operational Compliance of this paragraph.

Table 4.7.65

Para	Paragraph Provision	IMR-19-38	IMR-19-39	IMR-19-40	IMR-19-41	IMR-19-42	IMR-19-43
78	Provide management oversight of tactical activations and Level 2 and Level 3 uses of force.	Y	Y[64]	Y	Y	Y	Y
78a	Review all uses of lethal force, all in-custody deaths, and samples of other Level 3 uses of force, Level 2 uses of force, and tactical activations within 60 days of receiving the completed reports.	Y	Y	Y	Y	Y	Y
78b	Hear the presentation from the Internal Affairs Division or Special Operations Division chain of command.	Y	Y	Y	Y	Y	Y
78b	Discuss as necessary to gain a full understanding of the facts of the incident.	Y	Y	Y	Y	Y	Y
78c	Determine whether the incident raises misconduct, policy, training, equipment, or tactical concerns,	Y	Y	Y	Y	Y	Y
78c	Refer such incidents to the appropriate unit within APD to ensure the concerns are resolved;	Y	Y	Y	Y	Y	Y
78d	Document its findings and recommendations within 15 business days of the Force Review Board presentation;	Y	Y	Y	Y	Y	Y

We continued to see strong attendance by FRB members appointed by the Chief. APD consistently hears cases within 60 days of being approved by the IAFD Commander, putting APD in compliance with Paragraph 78a. Data we reviewed showed that cases were still being (routinely) heard in 30 days or less during this monitoring period. Based on our review of available data, APD complies with Paragraph 78a.

APD began devising a methodology for identifying and scheduling cases to be heard by the FRB, considering the new provisions of the 3rd Amended CASA. We worked with

[64] This case was an officer involved shooting. Within the force investigation was an email exchange between an IAFD investigator and a representative of the District Attorney's Office; The exchange was to obtain permission to proceed with interviews of officers for the administrative investigation. The entire response received was, "The State does not take a position on the conducting of interviews." We highly recommend APD and the City review this manner of response and determine whether it constitutes proper consultation with the District Attorney prior to officers providing statements.

APD on this matter during this monitoring period, and a new methodology was implemented for the FRB to meet the requirements of Paragraph 78a.

The process of administratively scheduling cases for the FRB begins with the transmission of closed Level 2 and Level 3 force investigations by the IAFD to the FRB administrative staff after the IAFD Commander approves cases. During this monitoring period, APD held 13 separate and distinct meetings by the FRB. The following are relevant statistics related to the performance of the FRB during the IMR-18 reporting period:

- A total of 42 use of force and tactical activation cases were reviewed by the FRB.
- Of the 42 cases reviewed, 7 were tactical activations.
- Of the 35[65] cases that were uses of force, the breakdown included:
  - 22 Level 2 use of force cases;
  - 13 Level 3 use of force cases;
    - Seven Level 3 officer-involved shooting (OIS) cases; and
    - Six additional Level 3 cases

The number of meetings and cases heard during this monitoring period is less than IMR-18 but aligns with the methodology presented by APD. With diligent oversight, we expect APD will be able to maintain its compliance with Paragraph 78a.

Paragraph 78d requires the FRB to document its findings and recommendations within 15 business days of the FRB presentation. We reviewed data in the form of ledgers and meeting minutes that captured the information required by the CASA. APD complied with the requirement of Paragraph 78d during this reporting period.

During the IMR-19 monitoring period, we were provided a quarterly trend report for the second quarter of 2023 that was presented to the FRB on August 10, 2023. We found the presentation to be professional and inclusive of significant relevant force data. The monitoring team reviewed the presentation materials and found them to be equally detailed with relevant information and statistics. We also reviewed meeting minutes following the presentation and noted good feedback and thoughtful inquiries by the Board. For instance, APD encounters uses of force at the Prisoner Transport Center (PTC), located in the Valley Command, involving prisoners whose arrests originated from a different Area Command. The concern raised was whether those numbers are skewing use of force data for the Valley Command, where the numbers are currently captured. There was no resolution to the question, so the monitoring team will follow up and provide technical assistance if requested. Likewise, the Board was interested in learning more about use of force data correlated to specific commands, shifts, and supervisors to further refine, identify, and isolate potential use of force trends. Based on our review of available data, we believe the FRB's performance with respect to reviewing and analyzing the use of force data complies with Paragraph 78e.

[65] The reader should note that an individual use of force event can involve multiple uses of force.

Results

As in the past, we commend the staff responsible for the administrative movement of cases for the FRB. We continue to acknowledge the importance of attendance at the FRB and APD's commitment to having executives as voting members of the FRB.

Based on our review of available data and cases during this monitoring period, we have determined that the FRB has achieved Operational Compliance for Paragraph 78. To sustain Operation Compliance, APD has to demonstrate that it can reliably provide management oversight of tactical activations and Level 2 and 3 uses of force. We will continue to provide technical assistance to the staff responsible for the FRB when requested.

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

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

Paragraph 79 states:

> **"At least annually, APD shall publish a Use of Force Annual Report. At a minimum, the following information should be included in the Annual Use of Force Report:**
> **a) number of calls for service;**
>
> **b) number of officer-initiated actions;**
>
> **c) number of aggregate uses of force, and uses of force by Level;**
>
> **d) number of arrests;**
>
> **e) number of 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 ECWs in operation and assigned to officers;**
>
> **i) number of incidents involving ECW discharges;**
>
> **j) analysis of ECW trends in ECW discharges, ECW shows of force, officer injuries, and injuries to others. Probe deployments, except those described in Paragraph 30, shall not be considered injuries;**
>
> **k) critical firearm discharges;**

l) number of individuals armed with weapons;

m) number of individuals unarmed;

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

o) number of individuals requiring hospitalization as a result of use of force, including APD and other law enforcement personnel;

p) demographic category; and

q) geographic data, including street, location, or Area Command."

Methodology

Paragraph 79 of the CASA addresses the requirements APD must meet by publishing a Use of Force Annual Report. The monitoring team requested course-of-business documentation that demonstrated that the provisions within the paragraph had been met.

APD published its 2022 Annual Use of Force Report during the IMR-18 reporting period.[66] We requested the final 2023 Annual Use of Force Report for 2023 and received a memorandum indicating that the report was being assembled and was expected to be completed by June 30, 2024. We do not find this concerning since these comprehensive reports are a significant task, and adequate time is needed to complete them properly. We have determined that APD has sustained the Operational Compliance status it achieved for Paragraph 79 during the last monitoring period.

Results

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

Monitor's Notes for Paragraph 79:

APD should ensure the use of force investigation backlog is reconciled accurately, and the complete data required by Paragraph 79 should be incorporated into the final 2020 and 2021 Annual Use of Force Reports.

[66] This Annual report was the first in several years that did not include the designation "Preliminary", presumably because 2022 represented the first full year of data that fell under the conditions of EFIT assistance and more reliable use of force investigations being finalized by IAFD.

APD should continue to monitor the uses of force, serious uses of force, and shows of force reporting discrepancies that are found. Reporting errors must be reconciled to ensure that statistics published in APD's Annual Use of Force Reports are accurate.

APD should assess its auditing processes for reports of Low-Level Control Tactics to ensure proper categorization is taking place. Data collected from these audits should feed the Annual Use of Force reports, and when appropriate, problematic cases should be referred to IA and the Academy.

APD should devise ways to scrutinize data presented by the individual department units and continue to coordinate with PMU to ensure common methods to handle, analyze, process, and present data.

4.7.67 Assessing Compliance with Paragraph 80

Paragraph 80 states:

> **"APD shall be responsible for maintaining a reliable and accurate tracking system on all officers' use of force; all Level 1 use of force reviews; all force investigations carried out by the Internal Affairs Division or Multi-Agency Task Force; and all force reviews conducted by the Compliance and Oversight Division and the Force Review Board. The purpose of the use of force tracking system is to serve as a repository of force data for the Use of Force Annual Report and the Early Intervention System.**

Results

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

4.7.68 – 4.7.75 Assessing Compliance with Paragraphs 81 - 87

Paragraphs 81 - 87 are self-monitored by APD.

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

Paragraph 88 stipulates:

> **"Supervisors of all ranks, including those assigned to the Internal Affairs Division, as part of their initial and annual in-service supervisory training, shall receive additional training that includes:**
>
> **a) conducting use of force reviews or investigations, including evaluating officer, individual, 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."

During this reporting period, the monitoring team corresponded with APD personnel responsible for the tasks associated with Paragraph 88 and met with them during our November 2023 site visit. Based on our review of available data, APD has sustained its Operational Compliance with Paragraph 88 during IMR-19.

At the close of the IMR-17 reporting period, APD promulgated its new use of force policies.[67] With feedback from the monitoring team, APD developed training for officers and supervisors in multiple courses throughout IMR-18 and IMR-19. The training approved by the monitoring team addressed changes for the following policies[68]:

SOP 2-52 Use of Force – General (1/26/2023);
SOP 2-53 Use of Force – Definitions (1/26/2023);
SOP 2-54 Use of Force – Intermediate Weapon Systems (1/26/2023);
SOP 2-55 Use of Force – De-escalation (1/26/2023);
SOP 2-56 Use of Force – Reporting by Department Personnel (1/26/2023); and
SOP 2-57 Use of Force – Review and Investigation by Department Personnel (1/26/2023).

As noted in IMR-18, a monitoring team member attended the 2023 Use of Force and RBT training on May 8 and 9, 2023. The training included elements that applied to Paragraph 88, and the training delivery was professional and extremely well done.

The curriculum for Day 1 included the class being broken into groups, exercises and scenarios were presented throughout the day, and the day concluded with a practical exercise in which all participants participated. Participants were challenged to apply concepts they learned throughout the day.

The Day 2 RBT training curriculum included updated Taser training held in a classroom, followed by each participant taking part in a series of challenging scenarios. They were tested against pre-established scoring metrics and expected to apply properly CASA-related use of force principles in a simulated live setting.

[67] The use of force policies (SOPs 2-52 through 2-58) were developed by APD, in consultation with and approved by DOJ and the monitor, and enacted on January 26, 2023.
[68] We note that SOP 2-8 "Use of On-Body Recording Devices (5/3/2022) was also addressed in the course.

On March 24, 2023, APD promulgated SO 23-40 for the "2023 Mandatory UOF Policy Suite Training", which listed training dates between April 25 and July 7, 2023. On March 14, 2023, SO 23-41, "2023 Mandatory UOF Policy Suite Realty Based Training" was promulgated, which listed training dates between May 9 and July 27, 2023.

- Day 1 – We reviewed an August 22, 2023, Academy Closeout Memorandum that captured the outcome data necessary to assess compliance. Of 864 sworn and available officers, 99 percent successfully completed the training. We noted a significant increase in passing scores between the Pre and Post-tests given to the attendees.

- Day 2 – We reviewed a September 1, 2023, Academy Closeout Memorandum that captured the outcome data necessary to assess compliance. Of 829 sworn and available officers, 98 percent successfully completed the training.

Both aforementioned training programs were relevant to assessing compliance with this paragraph. The following represents our findings related to Paragraph 88 for this monitoring period.

Paragraphs 88a, 88b and 88d

APD achieved compliance with Paragraph 88a, 88b, and 88d with its successful completion of the Day 1 - 2023 Use of Force training, as noted above. We reviewed a Closeout Memorandum on July 28, 2023, that isolated data for APD supervisors who attended the training. Of the 330 available supervisors, only one had not attended the training at the close of IMR-18, resulting in a 99.7 percent compliance rate.

Paragraph 88c

At the close of IMR-19, APD was preparing a curriculum to address the requirements of Paragraph 88c. We reviewed a January 29, 2024, Closeout Memo and a January 30, 2024, Status Memo for the (10-hour) 2023 Officer Involved Shooting (OIS) Procedures for Supervisors Course, which was previously submitted to the monitoring team and approved for delivery. On November 20, 2023, APD promulgated Special Order 23-147, mandating supervisors attend the training during one of seven sessions throughout December 2023. APD's course of business documentation showed that 333 of 335 (99%) of all active supervisors attended and successfully completed the course.[69]

The Closeout Memo documented valuable information from course critiques that the Academy staff should consider moving forward:

- The training resulted in a 66.16% increase in scores between the pre and post-tests that all supervisors took during the training;
- We observed numerous positive comments from class participants.

[69] There were two remaining supervisors on authorized duty leave (Military, FMLA, Admin.) who will attend a makeup session.

- There were also comments regarding unprofessional attire by attendees and unprepared instructors from MATF.

In IMR-18, we reiterated some general factors the Academy Director should consider. As APD embarks on self-assessment of use of force training for Paragraphs 86 and 87, and since training for those paragraphs is (typically) intrinsically linked to Paragraph 88, real-time monitoring of the classroom experience will be essential. We will repeat here that as APD provides use of force courses, they must supervise and quickly correct issues that exist with either of the following: (1) Content and quality of training materials relative to CASA requirements; and (2) Content and quality of the instruction of materials that are approved by the monitoring team. The tone set in the classroom (attendee attire) and preparation by instructors (MATF) is important feedback for the Academy to consider in order to ensure supervisory personnel are in the correct mindset and invested during the training. We did not see the comments as pervasive, but they are still a good data point. It is irrelevant to the monitoring team where an instructor's primary assignment is when they are covering CASA-related topics, so when people from outside the Academy are asked to instruct, the Academy should supervise those sessions closely. In short, the instructors should control the classroom, an important factor for sustained compliance.

Additional Observations

APD promulgated Special Order 23-141 on November 7, 2023, for a Mandatory Training Committee Meeting on November 14, 2023. We reviewed meeting documentation, which showed good attendance from across the organization, and discussed a variety of relevant training topics. These meetings can be a valuable tool as 2024 use of force training programs are being developed. We highly encourage the Academy staff to review IMR-19 paragraphs related to the monitoring team's case reviews. There may be valuable points Academy staff can draw from those case reviews that can be woven into future training programs. Likewise, issues or trends identified by IAFD and Level 1 teams should be a routine source of training development. We look forward to being provided 2024 training materials meant to meet the requirements of Paragraph 88.

During our interactions with APD's Academy, they continue to be professional and thoughtful with their approach to training. As in the past, they are receptive to monitoring team feedback and adjusting the curriculum based on that feedback when appropriate. With the continued support of APD's executive staff, we expect sustained compliance during the next monitoring period.

APD's compliance standing for Paragraph 88 has been sustained at Operational Compliance for this reporting period.

Results

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

Monitor's Notes:

Academy staff should contemplate the ongoing, annual training responsibilities relevant to Paragraph 88 and plan accordingly.

APD personnel assigned to non-Academy commands with significant training requirements should be closely supervised and receive training commensurate with the Academy staff. This will ensure continuity in curriculum development and delivery of that curriculum across the organization.

Supervisory protocols should be implemented to oversee the quality and content of training in the classroom.

APD's executive staff should continue to prioritize APD's Training Committee meetings, where departmental liaisons attend meetings and submit data and specific, tangible needs that inform learning objectives in the Academy curriculum.

APD should continue to ensure that the Academy is the central point for reviewing and approving all training development and delivery processes for APD.

APD should continue scrutinizing training developed from outside sources before it is delivered to the department, regardless of its origin. Training programs should be developed based on best practices and APD policy and must be congruent with the requirements of the CASA.

4.7.76 – 4.7.96 Assessing Compliance with Paragraphs 89 - 109: Annual Firearms Training

Paragraphs 89-109 are self-monitored by APD.

4.7.97 Assessing Compliance with Paragraph 110: Individuals in Crisis and Related Issues

This paragraph is a Non-Rated Paragraph.

4.7.98 – 4.7.115 Assessing Compliance with Paragraphs 111- 128: Mental Health Response Issues.

Paragraphs 111-128 address the processes required by the CASA for APD and the City when responding to calls for service involving mental health crises and homelessness. In determining compliance outcomes for these paragraphs, the monitoring team reviewed normal course-of-business documentation related to the City's responses to individuals in crisis and people who are unsheltered.

We note that APD has met, and in many cases, far exceeded, the requirements of the CASA as it relates to mental health response planning, crisis intervention, training

development and delivery, and service delivery. Our review indicates that APD crisis outreach services personnel have continued to work diligently with MHRAC to assess, improve, and serve affected communities.

We also note that APD's CIT program serves as a national model. Members of the CIU regularly consult with peers in other law enforcement agencies across the country. APD's crisis intervention system has produced work that consistently demonstrates creativity and community responsiveness.

In assessing the City's compliance with these paragraphs, we reviewed City processes designed to:

- Structure and improve mental health processes in the community;
- Foster close coordination between APD, other City resources, and mental health community leaders, including MHRAC; and
- Create meaningful, flexible, and effective mental health services throughout the communities served by the City and APD.

4.7.98 - 4.7.100 Assessing Compliance with Paragraphs 111 - 113

Paragraphs 111 - 113 are self-monitored by APD.

4.7.101 Assessing Compliance with Paragraph 114:

Paragraph 114 stipulates:

> **"APD, with guidance from the Advisory Committee, shall develop protocols that protect the confidentiality of information about individuals with known mental illness."**

Methodology

During the reporting period, the monitoring team reviewed MHRAC's reports, recommendations, communications, processes, and key APD memoranda, assessing these documents for compliance with the requirements of Paragraph 114. Specifically, we reviewed weekly email communications between the APD and UNM related to the memorandum of understanding (MOU).

Results

The MOU between APD's CIU and the University of New Mexico Health Sciences Center/UNM Health Systems remains in place. The MOU has not been updated since the monitoring team's previous reviews (signed and dated October 16, 2017). According to the City's Legal Department, the MOU is in effect until September 30, 2099. The CIU continues to share information via email with UNM weekly, as required by the MOU.

We note that APD's existing mental health training courses include content regarding the MOU between APD and the University of New Mexico. Further, the CIU Commander reviewed APD's internal affairs records to ascertain whether any APD violations of the existing confidentiality processes had been reported. There were no such complaints or requests to investigate violations of confidentiality during this reporting period. Finally, the monitoring team reminds APD that confidentiality issues should be discussed with the MHRAC's Policy, Information Sharing, and Resources sub-committee when appropriate.

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

4.7.102 – 4.7.109 Assessing Compliance with Paragraphs 115 - 122

Paragraphs 115 – 122 are self-monitored by APD.

4.7.110 Assessing Compliance with Paragraph 123: Crisis Intervention Certified Responders and Crisis Intervention Unit

Paragraph 123 stipulates:

> **"APD shall maintain 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 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."**

Methodology

The monitoring team reviewed training and assignment records for crisis intervention certified responder officers (ECIT officers) and the CIU for the reporting period. We also reviewed data and analyses regarding ECIT-officer response rates to calls for service, as well as the continued efforts of the CIU to maintain ECIT officers by recruiting officers who demonstrate effective de-escalation skills during routine performance reviews.

Results

During this reporting period, APD data indicated that, on average, ECIT-trained officers respond to about 83 percent of calls for service involving behavioral health elements.

The percentage of ECIT responses to these calls for service varied somewhat across shifts and area commands during this reporting period. The details by month are depicted in the chart below.

4.7.110 Percentage of ECIT Responses to Mental Health Calls for Service

Month	***% ECIT responses to mental health calls for service***
August	77%
September	81%
October	83%
November	83%
December	83%
January	88%
Average	***83%***

The monitoring team notes the consistent response rates of ECIT officers responding to mental health-related calls for service. Response rates spanned between 77 percent and 88 percent during the six months of this reporting period. In addition to collecting and maintaining this data, the monitoring team appreciates APD's internal communication regarding this data. Each month the CIU Commander sends an email to key leadership across the city, noting detailed breakdowns of ECIT responses by area command and shift. Keeping APD's latest responses as a priority focus for APD leadership is helpful in identifying problems (if any).

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

4.7.111 - 4.7.113 Assessing Compliance with Paragraphs 124 - 126

Paragraphs 124 – 126 are self-monitored by APD.

4.7.114 Assessing Compliance with Paragraph 127

[THIS PARAGRAPH INTENTIONALLY LEFT BLANK.]

4.7.115 Assessing Compliance with Paragraph 128

Paragraph 128 stipulates:

> **"APD will ensure that crisis intervention certified responders or CIU will take the lead, once on scene and when appropriate, in interacting with individuals in crisis. If a supervisor has assumed responsibility for the scene, the supervisor will seek input of the crisis intervention certified responder or CIU on strategies for resolving the crisis when it is practical to do so."**

The monitoring team reviewed documentation of APD's reviews of city-wide field interactions between officers and individuals in crisis, which APD launched in response to our recommendations for this paragraph in IMR-12.[70] These reviews are designed to understand officers' interactions with people in crisis, including which responding officers are (ECIT) certified crisis responders and whether those officers take the lead on-scene, as required by APD policy SOP 2-19.[71] APD CIU personnel conducting these reviews complete a standard review form (the "Crisis Intervention Call Review" form) to capture important information and take appropriate action to refer potential policy violations to the proper accountability channels. During this reporting period, we also reviewed body-worn camera footage of various field responses to mental health-related incidents.

Results

APD's CIU has continued to address our recommendation to conduct assessments of a random sample of crisis intervention responses throughout the Field Services Bureau. As is now CIU's practice, thorough reviews were conducted by CIU's sergeants, lieutenants, and commander during this reporting period, with the reviewers drawing upon CAD data, OBRD video, incident reports, and CIT reports.

We note that in its recent revision to its *Behavioral Health Division Crisis Intervention Division Handbook (CID Handbook)*, the section entitled "Item 20: CIT Supervisor Call Reviews" details the process by which such reviews shall be conducted. We note that this review process is continual and demonstrates APD's willingness to regularly review officers' behavior in the field, correct deficiencies and problems early, and make proper referrals when necessary. We also note that one of these reviews prompted an officer to receive the APD's "De-escalation Officer of the Month" award for his approach to a mental health-related call for service.

---

[70] IMR-12, Recommendation 4.7.115a: Conduct a complete assessment of all CIT/CIU responses involving the officer identified in the events outlined above. IMR-12, Recommendation 4.7.115b: Conduct a random sample of all CIT/CIU responses to ensure that the issues identified above have not been replicated in other CIT/CIU responses by other officers. IMR-12, Recommendation 4.7.115c: Provide the monitor the results of the inquiry outlined above for inclusion in IMR-13.

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

The monitoring team acknowledges this ongoing review based on assessments of field services officers' interactions with people with mental illness and people in crisis. APD's processes identify deficiencies (if any) and address them promptly.

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

4.7.116 – 4.7.124 Assessing Compliance with Paragraphs 129 - 137

Monitoring team members reviewed documentation detailing APD's current activities related to policing service delivery for people with mental illness and people in behavioral crises (paragraphs 129 through 137). Our observations indicate that, overall, the behavioral health paragraphs of the CASA have received careful and meaningful attention during this reporting period.

The data and processes we reviewed indicate that APD's outreach and support efforts to those in the communities served by CIT processes are effective and problem-oriented.

CIU Training and field reviews remain a strong point of this effort.

4.7.116 Assessing Compliance with Paragraph 129

Paragraph 129 stipulates:

> **"APD shall collect data on the use of crisis intervention certified responders and CIU. This data will be collected for management purposes only and shall not include personal identifying information. APD shall collect the following data:**
>
> **a) date, shift, and area command of the incident;**
>
> **b) individual's age, race/ethnicity, and gender;**
>
> **c) whether the individual was armed and the type of weapon;**
>
> **d) name and badge number of crisis intervention certified responder or CIU detective on the scene;**
>
> **e) techniques or equipment used;**
>
> **f) any injuries to officers or others;**
>
> **g) disposition of the encounter (e.g., arrest, citation, referral); and**
>
> **h) a brief narrative of the event (if not included in any other document)."**

Methodology

The monitoring team reviewed relevant data and the most recent data analysis, including data from January 2023 through June 2023 (prior to this reporting period). The analysis was completed and made public in the fall of 2023.[72] Our analysis determined whether APD is collecting all the required elements of this paragraph and assessing documentation about staffing and analytics capabilities, to determine whether APD can use the data for "management purposes," as this paragraph requires.

Results

Our review of the documentation submitted by APD, including some analysis of responses to calls for service by supervisors, ECIT officers, and MCTs, indicates that APD continued to collect appropriate data on all required elements of this paragraph and continued its attempts to analyze it meaningfully.

The monitoring team is encouraged by the management and timely analyses of these data. We have seen improvements evidenced by the collaboration between CIU and the APD's Accountability and Analytics Bureau to review mental-health-related calls for service that resulted in officers using force.

We remain highly concerned about the sheer number of officer-involved shootings of people in crisis or people with mental illness. We appreciate the CIU's efforts to continuously review officer behavior in the field and take appropriate corrective actions when necessary. Still, APD leadership and accountability structures must also effectively address these issues.

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

4.7.117 Assessing Compliance with Paragraph 130

Paragraph 130 is monitored by APD.

4.7.118 Assessing Compliance with Paragraph 131

Paragraph 131 stipulates:

> **"Working in collaboration with the Advisory Committee, the City shall develop and implement a protocol that addresses situations involving barricaded, suicidal**

[72] The latest CIU Data Book may be found on the City's website: https://www.cabq.gov/mental-health-response-advisory-committee/mental-health-response-advisory-committee-documents

> **individuals 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 individuals while providing suicidal individuals with access to mental health services."**

Methodology

The monitoring team reviewed the most recent draft of SOP 2-20 *Hostage Situations, Barricaded Individuals, and Tactical Threat Assessments,* which was updated during this reporting period (Effective Date: 10/11/23).[73] We also reviewed the relevant training curriculum, which appropriately emphasizes disengagement, as well as the review processes corresponding to this policy and training.

Results

The relevant policy was reviewed and updated during this reporting period. The review was "staffed" through the proper channels, including MHRAC. APD's Special Operations Bureau reported one tactical activation resulting from a suicidal barricaded individual during this reporting period. The monitoring team also notes that the CIU and the SOD plan to collaborate on some future training regarding suicidal barricaded people. We appreciate the continued cooperation among different divisions and bureaus of APD and the continuing creativity regarding training related to these important topics.

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

4.7.119 - 4.7.121 Assessing Compliance with Paragraphs 132 – 134

Paragraphs 132 - 134 are self-monitored by APD.

4.7.122 Assessing Compliance with Paragraph 135

Paragraph 135 stipulates:

> **"APD shall maintain 12 full-time detectives in the CIU, or the target number of detectives identified by any future staffing study, whichever is fewer."**

Methodology

The monitoring team reviewed CIU rosters and relevant programmatic records related to current caseloads.

[73] SOP 2-20 *Hostage Situations, Barricaded Individuals, and Tactical Threat Assessments* may be reviewed on the APD's website: https://public.powerdms.com/COA/tree/documents/125

Results

The CIU was fully staffed with detectives during this reporting period, maintaining 12 detectives throughout the reporting period. The CIU saw some turnover in its four supervisors during this reporting period (one commander, one lieutenant, and two sergeants), with the lieutenant position remaining vacant at the end of this reporting period in January 2024. The CIU also experienced some turnover among the four officers assigned to its mobile crisis teams, with one vacancy remaining at the end of the reporting period in January 2024. APD worked to fill these vacancies promptly. The monitoring team continues to appreciate the significance of a Commander overseeing this important unit.

As we have noted consistently, APD should analyze and revisit their staffing needs regularly. The study completed during the last reporting period carefully analyzed CID workloads by role (i.e., clinicians, home-visit detectives, coordinating detectives) and other relevant variables such as APD's shift relief factors. Further, the study addressed how Albuquerque's Community Safety Department (ACS) impacts APD. We applaud this work and encourage the APD to keep these analyses updated on a regular cadence.

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

4.7.123 Assessing Compliance with Paragraph 136

Paragraph 136 is self-monitored by APD.

4.7.124 Assessing Compliance with Paragraph 137

Paragraph 137 stipulates:

> **"APD shall collect and analyze data to demonstrate the impact of and inform modifications to crisis prevention services. This data will be collected for management purposes only and shall not include personal identifying information. APD shall collect data regarding the number of calls for service routed to ACS, the number of calls for service flagged for an ECIT response, and the number of calls for service flagged for an ECIT response that do not receive an ECIT response. APD shall report this data on a regular basis, broken out in various ways, such as by race and ethnicity, location, time of day, and whether force was used. APD shall analyze this data to assess the City's crisis response efforts, including evaluating calls for service that did not receive an ECIT response."**

Methodology

The monitoring team reviewed relevant data and recent data analyses to determine whether APD is collecting all the required elements of this paragraph, as well as documentation about staffing and analytics capabilities to determine whether APD can use the data to "demonstrate the impact of, and inform modifications to, crisis prevention services," as this paragraph requires. We also reviewed APD's new SOP 1-97 Data Analysis Division (Effective Date: 11/8/23).

Results

As we mentioned in Paragraph 129 of this report, the monitoring team is increasingly encouraged by the collection, management, and analyses of these data and APD's capacity to use them for management purposes and to "demonstrate the impact of and inform modifications to crisis prevention services," as this paragraph requires.

We understand that analyzing data well is a complex task for any police department, but APD's Accountability and Analytics Bureau has taken steps to move these requirements forward.

As noted in paragraph 129, we see evidence that APD is harnessing these data in new ways to examine force incidents, including shootings, through the lens of crisis intervention unit data. We encourage APD leadership and the City's accountability systems to work to understand and learn from these incidents, use these data to reduce Officer-Involved Shootings in the future, and hold officers accountable when necessary.

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

4.7.125 – 131 Assessing Compliance with Paragraphs 139 – 145

Paragraphs 139 – 145 are self-monitored by APD.

4.7.132 Assessing Compliance with Paragraph 146

Paragraph 146 stipulates:

> **"APD shall apply policies uniformly and hold officers accountable for complying with APD policy and procedure.**

Methodology

The monitoring team found no incidents in which there were indications of meaningful disparities among similarly situated officers and discipline applied (see Paragraph 201, which discusses disciplinary findings.)

Results

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

4.7.133 – 4.7.148 Assessing Compliance with Paragraphs 147 - 161

Paragraphs 147 – 161 are self-monitored by APD.

4.7.148 Assessing Compliance with Paragraph 162

Paragraph 162 stipulates:

> **"To maintain high-level, quality service; to ensure officer safety and accountability; and to promote constitutional, effective policing, APD and the Civilian Police Oversight Agency shall ensure that all allegations of officer misconduct are received and are fully and fairly investigated; that all findings in administrative investigations are supported by a preponderance of the evidence; and that all officers who commit misconduct are held accountable pursuant to a fair and consistent disciplinary system. To achieve these outcomes, APD and the Civilian Police Oversight Agency shall implement the requirements below."**

This Paragraph is an introductory paragraph for the Internal Affairs Professional Standards (IAPS) unit (formerly IAPS -Misconduct Division) and the Civilian Police Oversight Agency (CPOA) related CASA requirements. As such, it requires no direct evaluation but is subsumed by the IAPS- and CPOA-related individual requirements below.

4.7.149 – 4.7.168 Assessing Compliance with Paragraphs 163 -182

Paragraphs 163 - 182 are self-monitored by APD.

4.7.169 - 4.7.180 Assessing Compliance with Paragraphs 183 - 194: Investigation of Complaints

Paragraphs 183, 190, and 191 of the CASA pertain to requirements for thoroughness, timeliness, reliability of findings, and overall quality regarding investigation of misconduct complaints. These paragraphs require that all relevant evidence be considered and that those investigations are fair, impartial, and reach reliable findings. They also require time limits for the completion of investigations.

During the 19th reporting period, monitoring team members reviewed a stratified random sampling of 10 investigations for which IAPS was responsible (six completed by IAPS

and four completed by the area commands). In addition, a stratified sampling of 20 investigations completed by CPOA was reviewed. The monitoring team also met with the Chief of Police, the City Attorney, the Acting CPOA Executive Director, and the IAPS Commander. Five new members have been appointed during the 19th reporting period. Those new board members are undergoing training and should be fully trained during the 20th reporting period.

The commander of IAPS continues to require supervisory reviews of investigations at ten, 20, and 40-day marks after case assignment. Investigations must be completed within 70 days of assignment, and the IAPS Commander must approve any extension. The IAPS Commander must likewise approve requests for the Chief's (or designee's) approval for an extension of IAPS cases beyond 90 days. The commander also performs a weekly "timeline check" on every open IAPS investigation, and investigations that surpass 60 days are automatically flagged for the commander's review. Approval of completed investigations is electronically signed by the commander, leaving no room for the challenge of when the investigation was completed. The APD also tracks the timeline for reviewing a completed investigation by the chain of command through the Chief/Superintendent of Reform or their designee.

The quality and timeliness of investigations continue. The Civilian Intake Manager (CIM) continues to receive and classify all incoming complaints. This position has allowed the lieutenant to oversee area command investigations and the IAPS commander to focus on the quality and thoroughness of investigations. The CIM decides which allegations to forward to the area command for investigation. Further, the CIM is available for guidance and quality control for those minor investigations assigned to the area commands. Once investigations are assigned to IAPS investigators, the quality of those investigations is the purview of a separate investigations manager. We note that IAPS has needed less technical assistance recently. The communication process among the parties and monitoring team regarding intake and discipline has been maintained. We noted that during the prior IMR-18monitoring period, APD implemented an electronic Dashboard system to provide supervisors within APD/IAPS the ability to monitor various aspects of investigations and their timelines in a user-friendly format to provide greater oversight of those investigations. The new Dashboard system provides leading-edge technology for better accountability.

The monitoring team has reviewed minor misconduct allegations conducted by the area and division commands. Over the last several monitoring periods, APD has trained all personnel responsible for conducting internal affairs investigations, resulting in substantial increases in the quality of the investigations conducted by the Area Commands. APD consistently requires training for all newly assigned personnel who are assigned these investigations.

During this monitoring period, it was reported that outside investigative entities conducted two cases. It was also reported that the current oversight protocols established by City Legal remain in effect for those cases. We also note that during this reporting period, our stratified random sample of investigations completed by APD revealed that no investigations were deficient.

Regarding those investigations conducted by the area commands, we continue to see a steady improvement from prior reporting periods. All four cases reviewed during this period were in compliance with the requirements of paragraphs 183, 190, and 191. This continues to be success for APD.

Our review indicates a 100% operational compliance rate for this reporting period. At this point, policies and training regarding investigative processes for internal "complaints" exist. All agency members responsible for conducting or supervising internal affairs investigations have been trained, except for newly hired or transferred members. The IAPS Commander is responsible for ensuring newly assigned members receive the requisite training as soon as practicable. It is incumbent on the IAPS command to ensure all investigations are conducted within the requirements and timelines of APD policy and the CASA.

During this period, our review of a stratified random sampling of ten investigations found no cases that were classified other than Level 6 and Level 7 were assigned to Area Commands for investigation. This finding is a positive sign that more consideration is given to the accurate classification of complaints.

CPOA findings and advisements are discussed in greater detail in paragraphs 271-292. We note that none of the 20 CPOA cases reviewed were deficient, yielding a 100 percent compliance rate for Paragraph 190.

Regarding the time requirements contained in Paragraph 191, the past performance of IAPS has been consistent in the timely completion of investigations once the cases are assigned. In our current stratified random sample of the investigations for which IAPS was responsible, all cases were completed within mandated time frames.

Regarding the requirements relating to the timeliness of CPOA investigations contained in paragraphs 271-292 of this report, CPOA had nine of the 20 cases that exceeded the time requirements for investigation or review. This equates to a 55 percent compliance rate for paragraph 191, a 15 percent reduction compared to IMR-18. Thus, the CPOA does not comply with the requirements of Paragraph 191. In the monitor's opinion, this is most likely a result of the Agency's understaffing. The CPOA continues to struggle with this area. The CPOA Executive Director has requested funding for an Intake Manger, similar to the IAPS CIM position, to improve the intake process. The timeliness of the CPOA investigations is addressed in detail in paragraphs 271-292.

4.7.169 Compliance with Paragraph 183: Investigations Reach Reliable Conclusions

Paragraph 183 stipulates:

> **"APD and the Civilian Police Oversight Agency shall ensure that investigations of officer misconduct complaints shall be as thorough as necessary to reach**

> **reliable and complete findings. The misconduct complaint investigator shall interview each complainant in person, absent exceptional circumstances, and this interview shall be recorded in its entirety, absent specific, documented objection by the complainant. All officers in a position to observe an incident, or involved in any significant event before or after the original incident, shall provide a statement regarding their observations, even to state that they did not observe anything.**

Results

Our review indicated that neither IAPS nor CPOA experienced issues with compliance with this paragraph during this reporting period.

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

4.7.170 – 4.7.175 Assessing Compliance with Paragraphs 184 - 189:

Paragraphs 184 – 189 are self-monitored by APD.

4.7.176 Assessing Compliance with Paragraph 190: Considering All Relevant Evidence

Paragraph 190 stipulates:

> **"In each investigation, APD and the Civilian Police Oversight Agency shall consider all relevant evidence, including circumstantial, direct, and physical evidence. There will be no automatic preference for an officer's statement over a non-officer's statement, nor will APD or the Civilian Police Oversight Agency disregard a witness's statement merely because the witness has some connection to the complainant or because of any criminal history. During their investigation, APD and the Civilian Police Oversight Agency shall take into 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 have been 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."**

Our review of cases indicated that neither IAPS nor CPOA experienced issues with compliance with this paragraph during this reporting period.

Results

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

4.7.177 Assessing Compliance with Paragraph 191: 90 Days to Complete Administrative Investigations

Paragraph 191 stipulates:

> **"All administrative investigations conducted by the Internal Affairs Division or the Civilian Police Oversight Agency shall be completed within the applicable deadlines in the Collective Bargaining Agreement between the City and Intervenor. Review and final approval of the investigation, and the determination and imposition of the appropriate discipline, shall be completed within 40 days of the completion of the investigation. Extensions may also be granted to the extent permitted by state and city law or the Collective Bargaining Agreement between the City and Intervenor."**

Results

IAPS reached 100% compliance in this paragraph, but CPOA failed to meet the objective regarding timelines. In our experience, such failures are generally related to either inadequate staffing or supervision.

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

Recommendation for Paragraph 191:

4.7.177a: The City should refocus its efforts on adequate staffing related to this paragraph by conducting a quantitative analysis of the reasons that cause any case to be delayed past 120 days.

4.7.178-4.7.183 Assessing compliance with Paragraphs 192 -197

Paragraphs 192 through 197 are self-monitored by APD.

4.7.184 – 4.7.186 Assessing Compliance with Paragraphs 198–200: Staffing and Training Requirements

Paragraphs 198 through 199 of the CASA require the City to adequately fund and resource internal affairs functions (IAPS, CPOA, and the CPOA Board) and require that

APD personnel who conduct misconduct investigations receive a baseline amount of initial and annual training.

The monitoring team met with IAPS and CPOA, during the site visit for this reporting period. Their respective offices and physical spaces have remained the same. The monitoring team discussed staffing needs and training, reviewed staffing charts and training records, and assessed the timelines of processing complaints and information of potential misconduct in randomly selected investigations, assessing the quality of those investigations. The findings related to Paragraphs 198 through 199 indicate the following outcomes related to the requirements of the CASA.

At present, IAPS has a Commander, a Deputy Commander, a civilian Investigation Manager, a civilian Intake Manager, one lieutenant, two sergeants, one Administrative Coordinator, ten investigators (five detectives and five civilian personnel), and three administrative assistants. IAPS has continued to investigate all complaints within the time constraints, indicating that a proper staffing level has been reached, given current caseloads.

During this reporting period, the then-current Deputy Superintendent of Reform was appointed as the Superintendent of Reform, and a new Deputy Superintendent was appointed. These individuals have performed all required functions and have overseen the disciplinary process. A civilian intake manager oversees the complaint intake function. IAPS, as discussed more fully in the Investigations of Complaints section (paragraphs 183-191) of this report, has made additional strides in improving its processes. We recommend careful supervision to continuously monitor the incoming caseload to ensure adequate staff exists to continue to complete thorough investigations on time, as required by the time constraints of the CASA and Collective Bargaining Agreement (CBA).

Thus, IAPS and CPOA should be staffed sufficiently to meet their timeline responsibilities so that CASA and CBA timelines are met, and discipline for sustained charges is not “time-barred.”

During this period, the City Council hired a contract compliance officer, two analysts, and three new investigators, and it approved hiring one additional investigator for CPOA. Unfortunately, two seasoned CPOA investigators resigned, causing additional staffing issues. The City Council appointed three more CPOA Board members during this period, establishing the five-member board. However, the new CPOA Board has not met to hear cases as of the end of this monitoring period because they have not yet completed their required training. The new board is anticipated to meet during the IMR-20 reporting period.

During this period, the Interim Executive Director addressed all investigations that resulted in sustained findings and appropriately forwarded them to the APD. In this monitoring period, the reviews of the stratified random sampling of 20 CPOA investigations indicated that 55 percent of those cases were investigated and completed within the required time limit. This is a reduction of 15 percent from the 70 percent

compliance rate during IMR-18. This reduction indicates the staffing and supervision deficiencies noted in the past reports. Although the City is increasing the staffing level of the CPOA, it should continue evaluating the agency's needs and provide the necessary resources for that agency to fulfill its responsibilities.

The number of untimely cases revealed by our stratified random sampling is discussed more fully in conjunction with paragraphs 191 and 281 of this report.

A brief review of the current staffing of the CPOA revealed that there is currently a lead investigator, who is also serving as the Interim Executive Director, seven investigators, and two analysts assigned. The underlying issue of adequate staffing rests with the ability of each investigator to complete investigations within the time requirements. According to the Lead Investigator, CPOA received over 700 civilian complaints in 2023 and over 300 during this monitoring period. Approximately half required investigations be conducted. To put this in perspective, each investigator would have to complete more than one investigation per week, including identifying salient witnesses, scheduling witness interviews, conducting witness interviews, conducting officer interviews, analyzing witness and officer “testimony,” developing findings, fully documenting their investigations, and writing and proofing case reports. Also two seasoned CPOA investigators resigned during this period, further contributing to the shortage of adequately trained staff.

Not surprisingly, there was a deficiency noted in the timely completion of investigations by the CPOA, which, in the monitor’s opinion, may be attributed to an excessive caseload by each investigator and a lack of supervision. During this monitoring period, CPOA had only one supervisor responsible for all administrative oversight of the agency, training new investigators, training new board members, and reviewing and approving all investigations. Each investigator routinely carries 20 or more active investigations, which, based on the monitoring team's experience, likely leads to poor outcomes regarding timeliness. The Lead Investigator advised that they continue to attempt to triage cases and prioritize the cases they believe may be sustained so the APD can adhere to the CASA and CBA timelines for discipline. Unfortunately, the cases that are presumed less likely to be sustained often extend past due dates, and some of those cases could end up with sustained findings that cannot be disciplined due to those timelines. During this period, however, none of the reviewed cases resulted in “time barred” discipline.

From the monitor’s perspective, CPOA remains in crisis. This crisis was birthed by understaffing, the need for the City to fill supervisory and oversight positions, and the need to improve the organizational structure of the agency.

In addition, one supervisor, the Lead Investigator, completed the intake of the over 700 complaints per year and acted as the Interim Executive Director during this monitoring period. The Lead Investigator/Interim Executive Director was responsible for training the three newly hired investigators and conducting the only review of all completed investigations. The workload on the Lead Investigator/Interim Executive Director remains excessive and unsustainable. The new City ordinance established a Deputy

Director's position, which could assist in creating adequate supervision. Still, it remains vacant, as the Executive Director will be responsible for hiring someone for that position. To date, no available information has been provided concerning any staffing study for the CPOA. This staffing study, which has reportedly been underway for an extended period, has yet to yield results, recommendations, or insights to CPOA work flow issues.

As we have pointed out in prior IMRs regarding paragraph 199 of the CASA, we are satisfied that the training requirement is met for those members of APD who conduct investigations involving allegations of misconduct. Both the 24-hour preliminary and 8-hour in-service training addressed the requirements of this paragraph. Currently, all members, except the newest members, who may be tasked with conducting an internal affairs investigation, have received the requisite training. Any newly promoted members who have not received the training are scheduled to attend an upcoming training session.

According to the Interim Executive Director/Lead Investigator, all CPOA investigators received initial formal investigatory training from an outside vendor and additional annual training. The new investigators hired during this period have received on-the-job training from a seasoned investigator and will attend the next available formal training course.

There has been a practice of assigning IA investigations to members of an area command, at the rank of sergeant or higher, to conduct investigations alleging minor misconduct against an APD member of the same area command. This practice is currently in effect. During this period, all area command review investigations were conducted within the requirements of the CASA. Therefore, we find that both the APD and the CPOA are in operational compliance with paragraph 199.

This report further discusses the CPOA and CPOAB training requirements in the Civilian Police Oversight Agency section (paragraphs 271-292).

4.7.184 Assessing Compliance with Paragraph 198: CPOA Staffing

Paragraph 198 stipulates:

> **"The City shall ensure that APD and the Civilian Police Oversight Agency have a sufficient number of well-trained staff assigned and available to complete and review thorough and timely misconduct investigations in accordance with the requirements of this Agreement. The City shall re-assess the staffing of the Internal Affairs Professional Standards Division after the completion of the staffing study to be conducted pursuant to Paragraph 204. The City further shall ensure sufficient resources and equipment to conduct thorough and timely investigations."**

Results

The APD/IAPS was found to be adequately staffed to fulfill their administrative responsibilities. The CPOA was found to be inadequately staffed during this period.

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

Recommendations for Paragraph 198:

4.7.184a: The City should ensure that the CPOA is adequately staffed for investigative responsibilities, using effective measures of workload, the time needed to complete the "average" CPOA investigation, and the time needed to assess and perform quality control processes.

4.7.184b: A comprehensive staffing study should be conducted to establish realistic expectations on the number of investigations an investigator can complete appropriately. That number should be utilized in establishing mandatory staffing levels to enable the CPOA to complete its investigations within the allotted time requirements.

4.7.184c: A comprehensive work-flow and productivity assessment is needed to identify bottle-necks and possibly underproductive work processes.

4.7.185 Assessing Compliance with Paragraph 199: IA Initial and Annual Training

Paragraph 199 stipulates:

> **"All APD personnel conducting misconduct investigations, whether assigned to the Internal Affairs Division, an Area Command, or elsewhere, shall receive at least 24 hours of initial training in conducting misconduct investigations within one year of the Operational Date, and shall receive at least eight hours of training each year. The training shall include instruction on APD's policies and protocols on taking compelled statements and conducting parallel administrative and criminal investigations."**

Results

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

4.7.186 Assessing Compliance with Paragraph 200: CPOA Training

Paragraph 200 is self-monitored by the City.

4.7.187 – 4.7.188 Assessing Compliance with Paragraphs 201- 202: Discipline and Transparency

Paragraphs 201-202 require discipline to be fact-based and imposed for sustained violations based on appropriate and articulated consideration of aggravating and mitigating circumstances. These paragraphs also require the use of a disciplinary matrix in imposing discipline and the analytical elements of the disciplinary regulation SOP 3-46. Read together, these paragraphs require progressive discipline that is fair, consistent, and commensurate with the violation committed while balancing aggravating and mitigating factors.

During this review period, the monitoring team reviewed a stratified random sample of disciplinary cases in which allegations were sustained and discipline imposed. We also met with the Chief of Police, the Disciplinary Authorities consisting of the Executive Director of Reform, the Deputy Directors of Reform, the Professional Integrity Commander (PIC), the City Attorney, and the CPOA Lead Investigator. We also reviewed APD and CPOA discipline processes.

Processes

As we documented in past monitor reports, marked improvements have been made in the processes of the APD disciplinary system. The most impactful has been the reduction of the number of disciplinary authorities and their specialization in -- and professionalization of – the disciplinary process; the development and continued refinement of the Disciplinary Action packet (DAP); the continued fine-tuning of the disciplinary regulation SOP 3-46; and the development and use of the IAPS Dashboard. These and other process improvements have been addressed and detailed in prior monitor reports and need not be detailed again in this report, except to point out that during this monitoring period, the DAP once again has been upgraded to make the calculation of prior offenses (that would count for purposes of progressive discipline) and the calculation of the appropriate range in the matrix more readily discernible. The process improvements are now well- ingrained in APD disciplinary practice. In addition, with the continued assessment and revision of 3-46, as approved by the monitoring team, more uniformity in conducting disciplinary analyses has resulted among the disciplinary authorities and the CPOA.

One new process to note is that during this monitoring period, the City announced hiring three professionals who will function as internal auditors in three distinct areas related to the CASA: police accountability, training, and use of force. The former Superintendent of Reform now fills the role of internal auditor of police accountability. The monitoring team met with him during the IMR-19 site visit and has had several conferences with him regarding the methodology of review of police disciplinary matters.

At the end of the IMR-19 reporting period, the APD disciplinary system continued to function with four disciplinary authorities. It has remained the same except for a change in titles. A deputy chief functions as the chief disciplinary authority, and two majors are the deputy disciplinary authorities. A commander continues as the Professional Integrity Commander (PIC). This is a notable improvement in the consistency of the process and the outcomes of that process, compared to the past practice of utilizing all deputy chiefs, area commanders, and special unit commanders as individual disciplinary authorities.

During this monitoring period, in matters with sustained allegations, where the proposed discipline is more than 40 hours, the PIC is the first line of review of the investigation and recommended discipline. The non-ranking major completes the second review, and the Deputy Chief presides over PDHs. The appropriate board, the Personnel Board or the Labor Management Relations Board, hears appeals of those matters.

In major disciplinary actions in which the proposed discipline is 40 hours or less, the first line of review is the PIC, the second line of review is the non-ranking major, and the ranking major hears the PDH. The deputy chief hears the appeal of such matters.

PDHs are not heard in minor disciplinary matters. Instead, the PIC imposes discipline. If there is a disagreement between the recommendation of the area commander and the PIC on the level of discipline, the non-ranking major designates the appropriate discipline.

Disciplinary Case Review

The monitoring team reviewed a stratified random sample of 24 cases in which an allegation or allegations were sustained during the review period, resulting in a disciplinary analysis. In that review, we identified six cases where there was the potential for major discipline: [IMR-19-48], [IMR-19-49], [IMR-19-50], [IMR-19-51], [IMR-19-52], [IMR-19-53]; and four cases with appeals where we reviewed both the imposition of discipline as well as the appeal itself**:** [IMR-19-54], [IMR-19-55], and [IMR-19-56]. In addition, we reviewed fourteen cases that were described as minor disciplinary cases: [IMR-19-57], [IMR-19-58], [IMR-19-59], [IMR-19-60], [IMR-19-61], [IMR-19-62], [IMR-19-63], [IMR-19-64], [IMR-19-65], [IMR-19-66], [IMR-19-67, [IMR-19-68], [IMR-19-69], and [IMR-19-70].

The above-noted improvements in the process have yielded noticeable improvements in compliance with the tenets of progressive discipline and a steadily increasing compliance rate. Notwithstanding, we found one case in which discipline was deficient.

[IMR-19-54] involved a sustained violation for failing to have the OBRD in buffer mode, a performance category violation/sanction level 6. For purposes of progressive discipline, this was a third offense resulting in a suspension range of 8 to 24 hours, with 16 hours presumptive.

A minimum of 8 hours was imposed. In light of mitigation that the subject had come from an administrative assignment that did not require the BWC to be in the buffer mode and

the fact that the subject attempted to activate the BWC as he was pursuing a suspect and succeeded in recording the law enforcement encounter but did not audio record all of the encounter, we view the minimum range discipline to be appropriate. At the PDH and again during the appeal, the subject's representative raised a time issue: that the time limits contained in the CBA were violated. The disciplinary authority in the PDH disagreed with this defense argument, but the disciplinary authority hearing the appeal agreed that the time limitations of the CBA had been violated. Although the actual IAPS investigation was within time, this sustained violation (which had been self-reported) was not reported by IAFD to IAPS for over three months after the incident and self-report. After the appeal, the discipline was reversed due to the disciplinary authority's interpretation of the CBA-related time issue. Regardless of whether the timeline issue was correctly decided, the violation had been sustained in the investigation. However, discipline was not imposed due to the timeline issue; thus, we find the result deficient.

Here, it bears repeating that compliance with the CBA in not imposing discipline that is "time-barred" does not excuse APD's failure to meet the requirements of paragraph 201 of the CASA to impose appropriate discipline on sustained charges. The CASA requires APD and CPOA to be staffed sufficiently to meet their investigative and notification responsibilities in a timely manner, operate efficiently, and bring sustained charges to the command review process in time for the review process to run its normal course. Notwithstanding the marked improvements made in timely efforts, APD and CPOA must ensure that investigative efforts comply with the CASA and applicable CBA timelines.

The above disciplinary case that we find to be deficient, out of a total of 24 cases in our random sample, equals a compliance rate of 96 percent. It further represents a continued, steady increase in the compliance rate from 91 percent in the previous monitor's report. The efforts of the disciplinary authorities in handling their reviews of cases and imposing discipline in accordance with the CASA and SOP 3-46 have shown a remarkable improvement from those in the early stages of the CASA.

In addition to the case in which we found disciplinary deficiencies, there are additional cases we reviewed that, although we find under the totality of circumstances that the discipline imposed was appropriate, there were shortcomings or areas of improvement that required attention.

[IMR-19-71], [IMR-19-72], and [IMR-19-73] involved a commonality of failing to conduct more robust questioning or seeking clarification where evidence is offered in a hearing that appears to be inconsistent with prior evidence. For example, [IMR-19-71] involved a sustained violation of failing to fully (audio) record an entire law enforcement encounter. The issue was whether the initial part of the video (a conversation with the restaurant manager) was a law enforcement encounter. In the IAPS investigative statement, the subject officer admitted that the conversation was a "law enforcement contact". However, the officer claimed it was not a law enforcement contact in the PDH, particularly on appeal (where he offered a more detailed version than in his investigative statement and PDH). These apparent contradictions and the later, more detailed version given during the appeal hearing did not appear to be an issue as they were neither pointed out by the IAPS representative nor questioned by the disciplinary authority.

[IMR-19-72] involved a sustained allegation of failing to conduct a supervisory review of the required two videos per subordinate per month. Given the totality of what the subject-officer offered, it was unclear whether he reviewed both videos and committed a clerical error in verifying the review or whether he reviewed one video where the subordinate was the primary and one video where the subordinate was the secondary and thought that sufficed. The seeming contradictions were neither pointed out in the hearings by the IAPS representative nor questioned by the respective disciplinary authorities in the PDH or appeal hearing.

[IMR-19-73] involved a sustained allegation for failing to complete a line inspection form. During the subject's statement, he alluded to "family stuff" as a mitigating factor and did not specify what he meant by "family stuff." In situations where non-specific mitigation is put forth, questions should be posed to clarify the nature of the mitigation and determine what weight, if any, to give it in the analysis.

In addition, [IMR-19-54] (addressed above where discipline was not imposed after appeal), an important fact in the CBA timeline analysis – that the failure to have the OBRD in the buffer mode was self-reported – does not appear in the investigative record until the appeal hearing. It was verified by the disciplinary authority in the appeal; however, the better practice is to have a process that requires defense or mitigation factors to be introduced in the investigation, thereby allowing IAPS or CPOA to confirm or refute the mitigation before making findings and any disciplinary recommendations that may follow.

Appeals

We noted in IMR-16 that appeals of disciplinary decisions would be an area of future review. In this regard, we reviewed four cases in which sustained charges and discipline were imposed, all of these also involved internal appeals considered by the deputy chief as the ranking disciplinary authority. No external appeals reported by APD were completed during the IMR-19 reporting period.

In these internal appeals, the exact discipline imposed was upheld and imposed on appeal except [IMR-19-54], addressed in the Disciplinary Review above. We find the timeline CBA interpretation to be a sufficiently "close call" made in good faith after carefully considering the applicable facts. Thus, we do not have an issue with handling the appeal.

As in the two previous monitor's reports, we continue to find that the City's and APD's appeals efforts are appropriate.

Non-Concurrence Letters

The monitoring team reviewed two non-concurrence letters issued during the IMR-19 reporting period, [IMR-19-74] and [IMR-19-75]. In both, we find the non-concurrence

letters to be adequate in explaining the thought process of the disciplinary authority in disagreeing with the CPOA findings.

We again point out that where the explanation of the disciplinary authority incorporates or refers to the findings of the PIC, those lower review level comments should be repeated or paraphrased in the non-concurrence letter. Also, an explanation robust enough to clearly understand the disciplinary authority's thought process must be provided, commensurate with the degree of the non-concurrence.

4.7.187 Assessing Compliance with Paragraph 201: Fact Based Discipline

Paragraph 201 stipulates:

> **"APD shall ensure that discipline for sustained allegations of misconduct is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are set out and applied consistently."**

Results

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

4.7.188 Assessing Compliance with Paragraph 202: Discipline Matrix

Paragraph 202 stipulates:

> **"APD shall establish a disciplinary matrix that:**
>
> **a) establishes a presumptive range of discipline for each type of rule violation;**
> **b) increases the presumptive discipline based on an officer's prior violations of the same or other rules;**
> **c) sets out defined mitigating or aggravating factors;**
> **d) requires that any departure from the presumptive range of discipline must be justified in writing;**
> **e) provides that APD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline; and**
> **f) provides that APD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed."**

Results

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

Operational: **In Compliance**

4.7.189 Assessing Compliance with Paragraph 203

This is a Non-Rated Paragraph.

4.7.190 Assessing Compliance with Paragraph 204: Comprehensive Staffing Study

Paragraph 204 is self-monitored by APD.

4.7.191 – 4.7.194 Assessing Compliance with Paragraphs 205 - 208: Supervision and Related Paragraphs

For the 19th reporting period (August 1st, 2023, through January 31st, 2024), the monitoring team requested and reviewed APD data related to these requirements in the form of policy, programs, course of business documents relating to:

- Documentation to support APD's community engagement activities;
- COB documentation for first-line supervision review of officers as required by the CASA;
- Daily worksheet schedules with CAD entries indicating sergeants log-in and log-out times for that shift;
- Commanders' and lieutenants' correspondences, reports, analyses, and other relevant documents that were prepared during normal COB, and
- COB supervisory reports to ensure quantitative and qualitative reviews of supervision.

During this reporting period, the monitoring team corresponded with APD personnel responsible for the requirements of Paragraphs 205,206, and 208 and also met with APD personnel during the December 2023 site visit.

Documentation to support the requirement in the supervision paragraphs as it pertains to working to engage the community and increase public trust was included in the data supplied. The summary of the 10-75-1 and 10-75-4 Community Event Tracker (a web-based application that tracks the Department's community engagement initiatives) was submitted to the monitoring team. Over two thousand events were captured during this reporting period. As mentioned in previous monitoring reports, the event types include (Non-law enforcement, Scheduled Community, and self-initiated). These community event trackers are submitted by event title and division/section of officers. They are broken down into separate categories, and categories of concern are set for follow-up. The 10-75-1 and 10-75-4 apps are covered extensively in this report's paragraphs 259,

260, and 261. APD continues fine-tuning the Community Event Tracker Dashboard to make the tool easier to view and identify trends.

Data reviewed for this reporting period by the monitoring team consist of, but were not limited to, the following:

- Detailed Scorecard (FSB and SSB) monthly containing:
  - teams or units being monitored,
  - the topic that each team or unit is measured,
  - the compliance percentage attained;
- Detailed Scorecard by Topics:
  - ECW,
  - OBRD
  - Firearms
  - Supervision
  - Seven-day extension
  - Inspection Summary
  - Citizen Complaint Forms;
- Detailed Scorecard
  - Sample size (number per team
  - Unit and number per topic);
- Detailed Explanation
  - Scorecard
  - Rebuttals.

As in previous IMR reports, rebuttals regarding scorecard documents are scrutinized and supported with detailed explanations for approval of compliance or non-compliance with the category being disputed.

- ReformStat continues to be utilized as a driving force to improve supervisory processes. APD has reached operational compliance in the supervision paragraphs of the CASA and advised the monitoring team it plans to utilize ReformStat as a measure of accountability and APD oversight;

- APD delivered supervisory courses to sworn personnel, as reported in paragraph 211 of this report.

- Officer Involved Shooting (OIS) Procedures for Supervisors;
  - Supervisory Leadership Training;
  - Traffic Incident Management for Supervisors (TIMS);
  - Use of Force (UoF) Policy Suite Training; and
  - Two First-Line Supervisor Courses.

- Random Line-up reports for area commands;
  Monthly Inspection Reports;
  - Random CAD entry reports for:

- Area Commands so that the monitoring team can verify identifiable first-line supervisor
    - If acting as first-line supervisor, an "A" is used to log on CAD to signify to all officers clearly who the supervisor is for the shift;

- Detailed Supervision Scorecards Status reports;
    - Topics
    - Sample size
    - Explanation of scorecard findings
    - Team Scorecards); and

- Random Sergeant CAD entry reports for Area Command.

During this reporting period, while visiting area commands (FSB and SSB), the monitoring team met with commanders, lieutenants, and sergeants. These on-site visits by the monitoring team allow the supervisors to engage the monitoring team and discuss the requirements of the supervision paragraphs. APD supervisors in these areas exhibit confidence in their positions and responsibilities. The monitoring team finds that as a result of their diligence, APD maintains operational compliance with these paragraphs.

4.7.191 Assessing Compliance with Paragraph 205

Paragraph 205 stipulates:

> **"First-line supervisors shall ensure that officers are working actively to engage the community and increase public trust and safety, and perform all other duties as assigned and as described in departmental policy."**

Results

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

4.7.192 Assessing Compliance with Paragraph 206

Paragraph 206 stipulates:

> **"All field officers shall be assigned to a primary, clearly identified first-line supervisor and shall also report to any other first-line supervisor within the chain of command. First-line supervisors shall be responsible for closely and consistently supervising all officers under their primary command. Supervisors shall also be responsible for supervising all officers under their chain of command on any shift to which they are**

assigned to ensure accountability across the Department."

Results

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

4.7.193 Assessing Compliance with Paragraph 207

Paragraph 207 is self-monitored by APD.

4.7.194 Assessing Compliance with Paragraph 208

Paragraph 208 stipulates:

"APD Commanders and lieutenants shall be responsible for close and effective supervision of officers under their command. APD Commanders and lieutenants shall ensure that all officers under their direct command comply with APD policy, federal, state and municipal law, and the requirements of this Agreement."

Results

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

4.7.195 -4.7.196 Assessing Compliance with Paragraphs 209 and 210

Paragraphs 209 and 210 are self-monitored by APD.

4.7.197 Assessing Compliance with Paragraph 211

Paragraph 211 stipulates:

"All sworn supervisors shall also receive a minimum of 24 hours of in-service management training, which may include updates and lessons learned related to the topics covered in the sergeant training and other areas covered by this Agreement."

During this reporting period August 1st, 2023, through January 31st, 2024), the APD Training Academy delivered the following courses to meet the requirements of the CASA.

Officer Involved Shooting (OIS) Procedures for Supervisors (10hrs)

- Sworn supervisors / acting supervisors (344);
- Authorized leave (9);
- Total number active and able to attend (335);
- Total number of sworn completed 1/30/2024 (333);
- Personnel scheduled for upcoming session (2);
- Percentage of sworn that completed course (96.8%);
- Percentage of active sworn that completed course (99.4%).

Supervisory Leadership Training (5hrs)

- Sworn supervisors / acting supervisors (350);
- Authorized leave (5);
- Total number active and able to attend (345);
- Total number of sworn completed 1/30/2024 (333);
- Personnel scheduled for upcoming session (0);
- Percentage of sworn who completed course (95.1%);
- Percentage of active sworn who completed course (96.5%).

Traffic Incident Management for Supervisors (TIMS) (10hrs)

- Sworn supervisors / acting supervisors (344);
- Authorized leave (5);
- Total number active and able to attend (340);
- Total number of sworn completed 1/30/2024 (340);
- Personnel scheduled for upcoming session (0);
- Percentage of sworn who completed course (98.8%);
- Percentage of active sworn who completed course (100%).

Use of Force (UoF) Policy Suite Training (10hrs)

- Sworn Supervisors / Acting Supervisors (338);
- Authorized Leave (3);
- Total number active and able to attend (335);
- Total number of sworn completed 1/30/2024 (333);
- Personnel scheduled for upcoming session (0);
- Percentage of sworn that completed course (98.5%);
- Percentage of active sworn that completed course (99.40%).

APD's Training Academy also supplied the monitoring team with course evaluations, instructor evaluations, lesson plans, power points, and special orders indicating the delivery dates for the training delivered. The Academy continues to strictly monitor personnel on various types of administrative leave to ensure that all personnel receive

the required training in a timely manner upon return to duty. APD maintains full compliance with this paragraph.

Results

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

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

The policy, curriculum, and plans to move forward with an Early Intervention System that can meet or exceed CASA requirements have been established. As we have long recommended, PEMS is proposed to be a data-driven system with thresholds supported by data analysis and research, using standard deviations to establish thresholds rather than arbitrarily assigned numbers of incidents.

During the monitoring period for IMR-16, Special Order SO 22-23 announced the rollout of PEMS. Supervisors were instructed that assessment notifications would be distributed via Blue Team and reminded to check their Blue Team inboxes daily. Further instructions for the required timelines for completing a performance assessment were provided.

At the close of the monitoring period for IMR-17, the course of business documentation from APD indicated that all supervisors had completed training regarding using the PEMS system and that the PEMS system was in use in all APD Bureaus. Training has been on-going for PEMS/Benchmark-related matters as new supervisors are promoted.

APD documented that during the monitoring period for IMR-19, 60 total assessments were generated. There were 29 data-driven assessments, resulting in five Actionable Assessments and 24 Advisable Assessments. There were 31 Command Initiated Assessments generated, of which 27 identified a need for improvement, resulting in monitoring plans. APD reported that 17 monitoring plans were successfully completed during the monitoring period.

During the December 2023 site visit, the monitoring team spent time with 13 supervisors at all area commands to assess their abilities in using the PEMS system. All supervisors stated that they had received training. They reported they were comfortable knowing what to do if they received an alert or where to go with any questions. Only four supervisors (of the 13 interviewed) had received an alert, and two were for commendable performance, which led to submissions for Officer of the Month.

While approved policy guidance exists, current policies will probably need to change as APD integrates new systems or updates risk factors. Additionally, APD needs to continually monitor the thresholds to obtain a representative sample and ensure the system can function as an Early Warning System. Currently, APD plans to alert at five to

seven percent annually. We have consistently discussed the CASA requirements related to data retention and threshold changes with APD, and progress has been made regarding data retention.

4.7.198 Assessing Compliance with Paragraph 212

Paragraph 212 stipulates:

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

Results

With the completion of the approved PEMS/EIS supervisory training for all active sworn supervisors and the on-going training for new supervisors, the requirements for secondary compliance relating to Paragraph 212 have been met. The latest training curriculum, which contains the protocols for the PEMS/EIS, has been approved, and training is scheduled to begin (and conclude) during the monitoring period for IMR-19. The monitoring team has not received documentation for the completion of this training.

During the December 2023 site visit, our interviews with supervisors tasked with using PEMS/EIS indicated that the supervisors were comfortable using the system or knowing where to go for help if they had questions. Several mentioned that the system was slow in loading and had routing errors. APD provided documentation that they discovered the routing issue and corrected the problem before the end of the monitoring period.

APD has documented on-going system improvements, including an automated notification process to remind supervisors of timelines and a process to open an Internal Affairs Request when a timeline violation occurs. The Data Analytics Division and the Department of Technology and Innovation continue storing all data collected in Benchmark, intending to warehouse long-term data (paragraph 217) permanently.

During the next site visit, the monitoring team will continue requesting APD to demonstrate that Benchmark can proactively act as an evaluation and "early warning" system, not simply a notification system requiring supervisors to react to alerts.

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

4.7.199 Assessing Compliance with Paragraph 213

Paragraph 213 stipulates:

> **"The Early Identification System shall allow for peer-group comparisons between officers with similar assignments and duties."**

Results

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

4.7.200 Assessing Compliance Paragraph 214

[THIS PARAGRAPH INTENTIONALLY LEFT BLANK.]

4.7.201 Assessing Compliance Paragraph 215

Paragraph 215 stipulates:

> **"The Early Intervention System shall be a component of an integrated employee management system and shall include a computerized relational database, which shall be used to collect, maintain, integrate, and retrieve data department-wide and for each officer regarding, at a minimum:**
>
> **a) uses of force;**
>
> **b) injuries and deaths to persons in custody;**
>
> **c) all critical firearms discharges;**
>
> **d) 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;**
>
> **e) all civilian or administrative complaints and their dispositions;**
>
> **f) all judicial proceedings where an officer is the subject of a protective or restraining order of which APD has notice;**
>
> **g) all vehicle pursuits and traffic collisions involving APD equipment;**

h) 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;

i) all disciplinary action taken against employees;

j) all non-punitive corrective action required of employees;

k) all awards and commendations received by employees, including those received from civilians, as well as special acts performed by employees;

l) demographic category for each civilian involved in a use of force or search and seizure incident sufficient to assess bias;

m) all criminal proceedings initiated against an officer of which APD has notice, 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

n) all offense reports in which an officer is a suspect or offender of which APD has notice."

Results

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

4.7.202 Assessing Compliance Paragraph 216

Paragraph 216 stipulates:

"APD shall develop and implement a protocol for using the updated Early Intervention System and information obtained from it. The protocol for using the Early Intervention System shall address data storage, data retrieval, reporting, data analysis, pattern identification, supervisory use, supervisory/departmental intervention, documentation and audits, access to the system, and confidentiality of personally identifiable information. The protocol shall also require unit supervisors to periodically review Early Intervention System data for officers under their command."

Results

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

4.7.203 Assessing Compliance Paragraph 217

Paragraph 217 stipulates:

> **"APD shall maintain all personally identifying information about an officer included in the Early Intervention System for at least five years following the officer's separation from the agency except where prohibited by law. Information necessary for aggregate statistical analysis will be maintained indefinitely in the Early Intervention System. On an ongoing basis, APD will enter information into the Early Intervention System in a timely, accurate, and complete manner and shall maintain the data in a secure and confidential manner."**

Results

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

4.7.204 Assessing Compliance Paragraph 218

Paragraph 218 stipulates:

> **"APD shall provide in-service training to all employees, including officers, supervisors, and commanders, regarding the updated Early Intervention System protocols within six months of the system improvements specified in Paragraphs 212-215 to ensure proper understanding and use of the system. APD supervisors shall be trained to use the Early Intervention System as designed and to help improve the performance of officers under their command. Commanders and supervisors shall be trained in evaluating and making appropriate comparisons in order to identify any significant individual or group patterns of behavior."**

Results

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

4.7.205 Assessing Compliance Paragraph 219

Paragraph 219 stipulates:

> **"Following the initial implementation of the updated Early Intervention System, and as experience and the availability of new technology may warrant, the City may add, subtract, or modify thresholds, data tables and fields; modify the list of documents scanned or electronically attached; and add, subtract, or modify standardized reports and queries as appropriate. The Parties shall jointly review all proposals that limit the functions of the Early Intervention System that are required by this Agreement before such proposals are implemented to ensure they continue to comply with the intent of this Agreement."**

Results

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

4.7.206 – 4.7.239 Assessing Compliance with Paragraphs 220-231

Paragraphs 220 – 253 are self-monitored by APD.[74]

4.7.240 – 4.7.255 Assessing Compliance with Paragraphs 255 -270: Community Policing and Community Engagement

4.7.240 Assessing Compliance with Paragraph 255

Paragraph 255 stipulates:

> **"APD agrees to ensure its mission statement reflects its commitment to community-oriented policing and agrees to integrate community and problem-oriented policing principles into its management, policies and procedures, recruitment, training, personnel evaluations, resource deployment, tactics, and accountability systems."**

Methodology

Paragraph 255 of the CASA represents the foundational requirements for developing, implementing, and sustaining a department that uses community policing principles as its philosophical core. To implement this requirement, the CASA requires APD to develop policy guidance and mission statements reflecting its commitment to the community,

[74] Paragraph 254 is an introductory paragraph and is not monitored.

engage in problem-oriented policing, and support administrative systems that support community policing practices. APD, over time, has made progress in integrating community policing concepts into its policies, operations, and practices. In prior reporting periods, APD revised its mission statement, updated its community-oriented policing training curriculum, expanded community partnerships, and established an Ambassador Program, which assigns officers to conduct ongoing outreach with community groups.

In October 2018, in conjunction with community members, APD developed the following mission statement, "The mission of the Albuquerque Police Department is to preserve the peace and protect our community through community-oriented policing, with fairness, integrity, pride, and respect." The APD vision statement includes the following language on their website. "Help provide a safe and secure community where the rights, history, and culture of all are respected." The City and APD have also become national leaders in exploring ways to effectively partner with other city agencies in responding to calls for service requiring non-law enforcement responses by establishing the Albuquerque Community Safety Department (ACS). The ACS dispatches trained behavioral specialists and social workers to non-violent and non-medical calls, reducing workloads for uniformed APD staff and providing responders better equipped to service those experiencing a mental health/behavioral crisis. ACS has been credited with contributing to recent crime reductions because of off-loading calls from APD, allowing officers to spend more time engaging in proactive policing, and reducing use of force against those experiencing behavioral crises. ACS expanded to provide 24-hour coverage in August 2023.

During the current reporting period, APD's efforts to integrate community policing and practices into operations have included the following programs and activities:

- Sworn personnel training related to community policing practices and principles;
- Recruitment efforts to have the APD workforce more closely mirror populations served;
- Personnel evaluations that include community policing component;
- Deployment of PRT officers in all area commands augmenting community policing activities;
- The assignment of crime prevention specialists to each area command;
- Enhancements for School Resource Officer training;
- Implementing outreach strategies for each area command;
- Establishing a Youth Working Group to leverage resources and partnerships for expanding services to at-risk youth;
- Completion of updated and revised climate survey assessing officers' knowledge of community principles;
- Ambassador Program, where APD conducts specific outreach to marginalized groups;
- Implementation of the "imprint" program for school-aged youth currently in 10 schools;

- Custom Notifications as part of the Violence Intervention program, which increased by 41 percent in 2023; and
- Shop with a Cop involving 24 selected youth from Wellness hotels for Christmas shopping.

During the last reporting period, APD reviewed and applied findings from the Climate Survey developed and administered by New Mexico State University. In addition, each month, the Chief of Police holds breakfast with about 20 Department staff members, including sergeants and patrol officers, allowing them to speak directly with the Chief and share their departmental views and concerns. During this reporting period, APD also initiated the use of social media survey tools to measure residents' feelings towards safety, fairness, respect, and voice. APD continued to use Spyder Tech, a customer satisfaction survey sent to individuals who call APD dispatch for police services. After each call for service, the survey is sent to the caller's phone number, asking for feedback on the services provided. APD uses data from all these sources to evaluate performance, training needs, information sharing, and messaging.

The monitoring team acknowledges the significant progress made by APD in recent years in expanding its community engagement and outreach activities and forming meaningful partnerships with other city agencies and community-based non-profit service agencies. Much remains to be done to leverage all city and community resources better and fully implement a broad community safety strategy. Most importantly, the ongoing challenges of crimes involving youth and young adults in Albuquerque require a systemic city effort of programming and activities targeting this at-risk population to address this disturbing trend. APD alone will be unable to address this community safety challenge fully, and city leaders must come together, leverage available resources, coordinate efforts, and remain focused on this goal to achieve results. A core component of community policing is public trust in policing practices. APD should enhance efforts to minimize actions that adversely impact that trust and make deliberative and proactive efforts to build trust further.

Results

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

4.7.241 4.7.241 Assessing Compliance with Paragraphs 256-257

Paragraphs 256 and 257 are self-monitored by APD.

4.7.243 Assessing Compliance with Paragraph 258: Officer Outreach Training

Paragraph 258 stipulates:

> **"Within 12 months of the Operational Date, APD agrees to provide 16 hours of initial structured training on**

community and problem-oriented policing methods and skills for all officers, including supervisors, commanders, and executives. This training shall include:

a) Methods and strategies to improve public safety and crime prevention through community engagement.
b) Leadership, ethics, and interpersonal skills.
c) Community engagement, including how to establish formal partnerships, and actively engage community organizations, including youth, homeless, and mental health communities.
d) Problem-oriented policing tactics, including a review of the principles behind the problem-solving framework developed under the "SARA Model" (Scanning, Analysis, Response, Assessment), which promotes a collaborative, systematic process to address issues of the community, safety, and the quality of life;
e) Conflict resolution and verbal de-escalation of conflict and;
f) Cultural awareness and sensitivity training.

These topics should be included in APD annual in-service training."

Methodology

APD reported that the 2023 in-service training began on July 10, 2023. The COP/POP refresher training is included in this phase. APD, with the concurrence of the monitoring team, has divided the COP/POP training into three segments as part of a three-year rotation, with a different segment taught each year. The first segment focused on implicit bias and cultural sensitivity. The monitoring team reviewed the curriculum and found that it met compliance thresholds. However, the monitor recommended some future improvements, including:

- more examination of stereotypes and fallacious assumptions about community members with mental health/behavioral disabilities;
- more discussion about the source of community bias and the misperceptions of APD officers; and
- greater emphasis should be placed on the role community policing practices can play in mitigating community bias by having APD officers work diligently to ensure that all community members are treated with dignity and respect.

2024 COP/POP training will focus on Community Oriented Policing, and 2025 training will focus on Problem-Oriented Policing. APD indicates that the three-rotation schedule allows for a more in-depth discussion for each topic area.

The COP/POP training is an important lynchpin to APD's reform efforts, helping officers internalize a different way to perceive their relationship with the community members they serve and assess alternative ways of interacting with the community. This allows APD to bring "change" to the forefront of its community policing processes. Evidence of

this desired training impact should be assessed in community surveys that can inform adjustments in training approaches.

Training data provided by APD for this reporting period included the following:

Total sworn officers – 861
Total number active and available to attend – 849
Total number of sworn completing training as of 12/18/23 – 812
Officers enrolled in make-up session – 37
Overall percentage of sworn attending training – 95.64 percent.

The monitoring team expects changes in training content as APD's community policing and engagement processes continue to expand and evolve. The monitoring team also encourages APD to develop assessment processes to measure the impact of training on-field practices.

Results

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

4.7.244 Assessing Compliance with Paragraph 259

Paragraph 259 is self-monitored by APD.

Assessing Compliance with Paragraph 260: PIO Programs in Area Commands

Paragraph 260 stipulates:

> **"APD shall develop a Community Outreach and Public Information program in each area command."**

Methodology

One significant impact of the CASA has been the greatly enhanced efforts of each command area in its public information program and outreach to community members. Prior to the CASA, there was little evidence of ongoing outreach and public information programming. APD made significant progress in implementing and expanding outreach and public information programming and activities in all of its command areas in recent reporting periods. Five of the seven area commands developed and posted monthly newsletters each month in this reporting period and began regularly posting upcoming events on their monthly calendar. The exceptions were the Southwest Command and the newly formed University Command areas. The monitoring team continued its review of the area command web pages for this reporting period and found a broad range of information regarding upcoming events in their area commands, crime trends, crime prevention tips, and Community Policing Council (CPC) meetings.

In an earlier reporting period, each of the six area commands completed a Community Outreach and Public Information Strategy that outlines goals, objectives and key activities. In the current reporting period, APD updated biographical sketches for area commanders and posted monthly and annualized crime data for the specific area commands. The monitoring team expects APD to update its Outreach and Public Information Strategy this calendar year. It is also important that area commanders continue to provide the necessary oversight and supervision to implement the Outreach and Public Information Strategy, which includes regularly developing and posting newsletters and other relevant information.

An impressive aspect of APD's outreach strategy is the regular participation of command staff in CPC meetings, including making monthly presentations to community members and answering questions about their operations. They often provide information on crime trends and share crime prevention tips and information with community members. This is another significant development becoming an institutionalized organizational behavior.

One of the goals of area command-based public information plans and strategies is to specifically address community outreach, messaging, and outreach to marginalized segments of the population and use of social media to accomplish this goal. The monitoring team continues to expect more progress in using these social media tools, especially to reach marginalized groups. The monitoring team also suggests that APD update its command area outreach strategies, emphasizing building community trust and enhancing community engagement.

Results

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

4.7.246 Assessing Compliance with Paragraph 261: Community Outreach in Area Commands

Paragraph 261 stipulates:

> **"The Community Outreach and Public Information program shall require at least one semi-annual meeting in each Area Command that is open to the public. During the meetings, APD officers from the Area command and the APD compliance coordinator or his or her designee shall inform the public about the requirements of this Agreement, update the public on APD's progress meeting these requirements, and address areas of community concern. At least one week before such meetings, APD shall widely publicize the meetings."**

Methodology

During this reporting period, APD made presentations at the CPC January monthly meetings about the IMR-18 and included an update on the APD transition to self-assessment. APD continues to use CPCs as a platform to share information about the implementation of CASA requirements and other local and neighborhood community safety issues.

Results

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

4.7.247 Assessing Compliance with Paragraphs 262 - 270

Paragraphs 262 - 270 are self-monitored by APD.

4.7.256 through 4.7.277 Assessing Compliance with Paragraphs 271-292: Civilian Police Oversight Agency

Paragraphs 271 through 292 of the CASA pertain to the Civilian Police Oversight Agency (CPOA), including the Civilian Police Oversight Advisory Board (CPOAB or the Board). These paragraphs require an independent, impartial, effective, and transparent civilian oversight process that investigates civilian complaints, renders disciplinary and policy recommendations and trend analysis, and conducts community outreach, including publishing semi-annual reports.

During the monitoring period and the December 2023 site visit, members of the monitoring team held meetings with the CPOA Interim Executive Director and her staff. We reviewed relevant training records and selected (using a stratified random sample) and reviewed 20 CPOA investigations and appeals. The CPOA investigations reviewed were [IMR-19-79], [IMR-19-80], [IMR-19-81], [IMR-19-82], [IMR-19-76], [IMR-19-83], [IMR-19-87], [IMR-19-88], [IMR-19-84], [IMR-19-85], [IMR-19-89], [IMR-19-90], [IMR-19-77], [IMR-19-91], [IMR-19-92], [IMR-19-93], [IMR-19-94], [IMR-19-95], [IMR-19-96], and [IMR-19-78].

The findings related to Paragraphs 271, 277, 279, 281, and 285 indicate the following outcomes related to the requirements of the CASA.

CPOA Budget and Staffing

The new CPOA Ordinance, 9-4-1-4.A.2, states:

> "The CPOA shall have a dedicated budget. The Director shall administer the budget in compliance with the city's Merit Ordinance and contractual services policies and procedures. The Director shall recommend and propose its budget to

> the Mayor and City Council during the city's budget process to carry out the powers and duties under 9-4-1-1 through 9-4-1-14, including itemized listings for the funding for staff and all necessary operating expenses. Adequate funding shall be provided to uphold the ability of the CPOA to carry out its duties and support its staff and operating expenses."

In past reports, we found the CPOA budget and approved staffing were adequate to meet the CPOA mission but emphasized the importance of filling vacant positions. At the time, we were encouraged to note that all approved positions were filled. Unfortunately, numerous personnel changes have occurred, the workload has continued to increase and the CPOA Board was disbanded. The City re-instituted a new style of an "advisory" board to replace the old board, which is expected to be beneficial to the mission once the new board is established, trained and operational. We will continue to monitor closely these processes for issues and/or problems.

As of the end of this monitoring period, the City Council has appointed all five members to the new board. The new board members are required to receive specific training to provide them with the resources to serve effectively. Unfortunately, the CPOA lost its supervision/leadership late in 2022, leaving the Lead Investigator/Interim Executive Director to supervise all staff and perform all administrative functions, including providing or arranging new board member training. Reportedly, board members are at various stages of training, and the training is ongoing. As of the writing of this report, the new board has not sat for hearings.

During this period, the City Council hired a Contract Compliance Officer whose responsibilities include recommending a permanent CPOA Executive Director to the City Council.[75] The Executive Director is responsible for hiring a Deputy Director. The entire process takes a substantial amount of time, which creates further backlogs and turmoil within CPOA. However, the City Council approved two hires to fill vacancies from investigators that left and one additional investigator. These three new investigators were hired in December 2023, but two existing investigators resigned. The Executive Director reportedly has been attempting to fill the two vacated positions. Once those positions are filled, the new investigators must be trained and gain experience. Then the CPOA should be better equipped to meet its obligations. The Executive Director has indicated that she has made a formal request to the City Council for hiring additional staff to assist in the intake of complaints and additional supervisors to assist in on-the-job training for the new investigators. This should better facilitate the administration of all of the 700-plus citizen complaints received each year by the CPOA. Filling these positions should be a significant priority.

Investigations and Reliability of Findings

Satisfactory cooperation between the CPOA and IAPS has been firmly rooted since the early days of the CASA. In general, both agencies continue to respect each other's roles

[75] Shortly after the end of this monitoring period, in February 2024, the City Council selected the CPOA Lead Investigator/Interim Executive Director as the permanent Executive Director of the agency.

and realize that it is in their best interests and that of the CASA to cooperate and facilitate their intertwined missions and related areas of responsibility. The CPOA has access to information and facilities reasonably necessary to investigate civilian complaints.

CPOA has the authority to recommend findings and disciplinary action in cases involving civilian complaint investigations. The Superintendent, or a designated disciplinary authority, retains the discretion to impose discipline but is tasked with writing a non-concurrence letter to the CPOAB when there is disagreement with the CPOA recommendations.

As we noted in the past IMRs, the investigations produced by the CPOA, once complaints are assigned, are generally thorough. During this period, we found that 100 percent of the stratified random sampling of cases reviewed was complete, thorough, and well documented. This constitutes a significant improvement from IMR-18.

The monitor has approved of administrative closure in situations where a preliminary investigation cannot minimally sustain the allegations contained in a complaint.[76] Our review revealed that the sample of 20 CPOA cases included three investigations that were administratively closed [IMR-19-76], [IMR-19-77], and [IMR-19-78]. We find those cases administratively closed to be appropriate.

In summary, our analysis reveals all investigations are of appropriate quality. This represents a CPOA compliance rate of 100 percent, an improvement from the 90 percent compliance rate in IMR-18. Therefore, based upon the review of the random sampling of the cases reviewed, the CPOA is operationally complaint with paragraph 190.

As discussed in prior IMRs and again in this report, the CPOA caseload is excessive, given the staff assigned, and it does not appear reasonable that the current six investigators can thoroughly and timely investigate 700-plus complaints in a year. We recommend, again, a staffing study be conducted to establish a minimum staffing standard. We do note, however, that two additional positions were added in fiscal year 24, one by the City Council, and one transferred from another department (though not yet filled) and the City Administration's new budget includes three additional investigator positions and additional operational funding. This is subject to Council approval.

Timeliness of Investigations

The monitoring team determines the following dates for cases we review: complaint received date, complaint assigned for investigation date, date of initiation of investigation after assignment, dates of completion of the investigation, the chain of command review, and notification of intent to impose discipline (where applicable). Although the CASA does not deal directly with the issue of time to assign, the parties and the monitor agreed

[76] In a subsequent modification of that approval, the monitor accepted the use of an "unfounded" finding in lieu of "administrative closure" in cases in which a preliminary investigation shows, by clear and convincing evidence, the conduct that is the subject of the complaint did not occur.

that a delay of more than seven working days for assignment is unreasonable and would affect the "expeditious" requirement of Paragraph 281. During this monitoring period, the assignment of cases was expeditious.

- During this reporting period, the monitoring team found nine investigations of the stratified random sampling of twenty completed cases that exceeded the 120-day limit or the supervisory review period: [IMR-19-79], [IMR-19-80], [IMR-19-81], [IMR-19-82], [IMR-19-83], [IMR-19-84], [IMR-19-85], [IMR-19-86], and [IMR-19-77].
- In IMR-19-79, the investigation was completed in 198 days after assigned and reviewed 11 days later. In [IMR-19-80] the investigation was completed in 260 days and reviewed 49 days later.
- In [IMR-19-81] the investigation was completed in 140 days and reviewed 15 days later. [IMR-19-82] the investigation was completed in 108 days and reviewed 59 days later;
- In [IMR-19-83] the investigation was completed in 104 days and reviewed 55 days later;
- In [IMR-19-84] the investigation was completed in 109 days but not reviewed for 45 days later, [IMR-19-85] the investigation was completed in 115 days but not reviewed until 58 days later;
- In [IMR-19-86] the investigation was completed in 126 days and reviewed 67 days later; and
- In [IMR-19-77] the investigation was completed in 188 days and reviewed 26 days later.

These data constitute a 55% compliance rate, a decrease from the last monitor's report.

A review of the electronic intake records was conducted, and it indicated that numerous investigations this monitoring period are still pending. According to the records provided, 97 pending cases have exceeded the 120-day time limit, which is a significant increase from the last report. There are also 60 cases in the supervisory review process. In addition, there are an additional 57 pending investigations that are within the required time limit. The current caseload for the CPOA is 154. During this period, the staff completed 123 investigations. Consistent with the last monitoring period, the CPOA was able to complete less than half of the complaints received, which continues to put a great deal of stress on the investigators and more importantly, reduces the responsiveness to address citizens' complaints. The backlog of "time-barred" investigations nearly doubled from the last reporting period to the IMR-19 reporting period. A growing backlog of investigations that have not been or could not be investigated within the time requirements remains a serious concern, as the CPOA staff receive more cases than they can investigate. The backlog creates a situation whereby the APD will not be able to discipline any cases with Sustained findings, which further deteriorates the public's confidence in APD's ability to address their complaints. Supervision remains paramount in properly managing any government agency, and is especially crucial in complying with the CASA. Proper supervision will be paramount to ensuring that the efficiency of the CPOA is optimal. CPOA investigators' caseloads are predicted to continue to increase

until proper supervision and staffing are achieved. The review of the CPOA Agency's timeliness in completing citizen complaint investigations demonstrates a significant deficiency in operational compliance with paragraph 281.

4.7.256 Compliance with Paragraph 271: CPOA Implementation

Paragraph 271 stipulates:

> **"The City shall implement a civilian police oversight agency ("the agency") that provides meaningful, independent review of all civilian complaints, serious uses of force, and officer-involved shootings by APD. The agency shall also review and recommend changes to APD policy and monitor long-term trends in APD's use of force."**

Results

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

Recommendation for Paragraph 271:

4.7.256a: Reconstitute the CPOA Board, ensure adequate training, and establish written goals and objectives for the Board.

4.7.257 Assessing Compliance with Paragraph 272: Independence and Accountability of CPOA

Paragraph 272 is self-monitored by the City.

4.7.258 Assessing Compliance with Paragraph 273: Requirements for Service of CPOA Members

Paragraph 273 stipulates:

> **"The City shall ensure that the individuals appointed to serve on the agency are drawn from a broad cross-section of Albuquerque and have a demonstrated commitment to impartial, transparent, and objective adjudication of civilian complaints and effective and constitutional policing in Albuquerque."**

Methodology

In a recently enacted City ordinance governing the CPOA Board operations and selection process, the prior CPOA Board was abolished, and modifications were made to the selection criteria for Board members, to better align with CASA requirements and

improve operations. The ordinance change also restricts employment of Board members by APD for up to three years prior to Board membership appointment, successfully passing a background check, and residency within the City of Albuquerque. By the end of this reporting period, five CPOA Board members were selected through a vetting process formulated and managed by staff from the Albuquerque City Council.

The monitoring team urges the City Council to move expeditiously to fill any board vacancies, if required, given the limited number of members under the new ordinance governing CPOA board operations.

Results

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

4.7.259 Assessing Compliance with Paragraph 274: CPOA Pre-Service Training

Paragraph 274 stipulates:

> **"Within six months of their appointment, the City shall provide 24 hours of training to each individual appointed to serve on the agency that covers, at a minimum, the following topics:**
>
> **a) This Agreement and the United States' Findings Letter of April 10, 2014;**
> **b) The City ordinance under which the agency is created;**
> **c) State and local laws regarding public meetings and the conduct of public officials;**
> **d) Civil rights, including the Fourth Amendment right to be free from unreasonable searches and seizures, including unreasonable uses of force;**
> **e) All APD policies related to use of force, including policies related to APD's internal review of force incidents; and**
> **f) Training provided to APD officers on use of force."**

Methodology

In this reporting period, CPOA staff completed a revised curriculum that addresses updated training requirements for new CPOA Board members. Because the CPOA Board member selection occurred at the end of the reporting period, newly selected Board members could not meet the 24-hour training requirements for this paragraph.

The monitoring team appreciates the progress made by the CPOA Interim Executive Director, in consultation with APD, in revising training to better align with the duties and responsibilities of CPOA Board members and incorporating changes resulting from the

new ordinance. The monitoring team strongly encourages CPOA staff, in consultation with the Contracts Compliance Officer, to create a timeline for fully implementing training and updating the tracking and reporting mechanisms for Board training completion.

Results

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

Recommendation for Paragraph 274:

4.7.259a: The CPOA should implement this training expeditiously and evaluate its effectiveness once implemented.

4.7.260 Assessing Compliance with Paragraph 275: CPOA Annual Training

Paragraph 275 stipulates:

> **"The City shall provide eight hours of training annually to those appointed to serve on the agency on any changes in law, policy, or training in the above areas, as well as developments in the implementation of this Agreement."**

Methodology:

This requirement was not addressed because the required new board appointments were not completed until the end of the reporting period. The City has completed the curriculum for this 8-hour training, including the incorporation of the monitoring team's. feedback. The monitoring team expects this training to be delivered during the next reporting period. The monitor was advised that the training will include quarterly briefings by the APD Academy Commander on changes in law, policy training and procedures and that legal updates will be provided through the Document Management System (Power DMS). Board members are also scheduled to attend trainings offered by the National Association of Civilian Oversight Law Enforcement (NACOLE).

Results

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

Recommendation for Paragraph 275:

4.7.260a: The City should move expeditiously to meet the CASA requirements for CPOA Board members.

4.7.261 Assessing Compliance with Paragraph 276: CPOA Ride-Alongs

Paragraph 276 stipulates:

> **"The City shall require those appointed to the agency to perform at least two ride-alongs with APD officers every six months."**

Methodology:

As previously stated, the CPOA Board selection occurred at the end of the reporting period, and the newly selected members lacked the opportunity to complete the ride-along requirements. The monitoring team expects the CPOA Director and the recently appointed Contracts Compliance Officer to ensure adequate tracking and reporting mechanisms to ensure compliance with this paragraph in the next reporting period.

Results

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

Recommendations for Paragraph 276:

4.7.261a: Now that the CPOA Board has been reconstituted at the required strength, the new members of the Board should expeditiously move forward with the required ride-alongs.

4.7.262 Assessing Compliance with Paragraph 277: CPOA Authority and Resources to Make Recommendations

Paragraph 277 stipulates:

> **"The City shall provide the agency sufficient resources and support to assess and make recommendations regarding APD's civilian complaints, serious uses of force, and officer-involved shootings; and to review and make recommendations about changes to APD policy and long-term trends in APD's use of force. Nothing in this paragraph prohibits the City from requiring the Board and the Agency to comply with City budgeting, contracting, procurement, and employment regulations, policies, and practices**."

Results

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

Recommendation for Paragraph 277:

4.7.277a: A Memorandum of Understanding (MOU) between the City, the CPOA/CPOAB, and the APOA on access to OIS/SUOF materials should be finalized and implemented, or some other workable solution reached, in order to allow the CPOAB more timely access to materials needed for review of OIS and SUOF incidents/investigations. This is a central component of the CASA's community oversight processes, and the monitor notes that this recommendation has been made in multiple monitor's reports, and has yet to be addressed.

4.7.263 Assessing Compliance with Paragraph 278: CPOA Budget and Authority

Paragraph 278 is self-monitored by the City.

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

Paragraph 279 stipulates:

> **"The agency shall retain a full-time, qualified investigative staff to conduct thorough, independent investigations of APD's civilian complaints and review of serious uses of force and officer-involved shootings. The investigative staff shall be selected by and placed under the supervision of the Executive Director. The Executive Director will be selected by and work under the supervision of the agency. The City shall provide the agency with adequate funding to ensure that the agency's investigative staff is sufficient to investigate civilian complaints and review serious uses of force and officer-involved shootings in a timely manner."**

Results

Primary: **In Compliance**
Secondary: **In Compliance**
Operational: **Not In Compliance**[77]

Recommendation for Paragraph 279:

4.7.264a: Complete a valid and reliable staffing study of the CPOA, and staff accordingly.

[77] The investigative staff continues to have difficulties meeting CASA requirements. At this point, the City must find a way to correct this continuing issue.

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

Paragraph 280 is self-monitored by APD.

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

Paragraph 281 stipulates:

> **"Investigation of all civilian complaints shall begin as soon as possible after assignment to an investigator and shall proceed as expeditiously as possible."**

Results

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

Recommendations for Paragraph 281:

4.7.266a: Immediate action should be taken to adequately staff the CPOA and special attention must be taken to complete all the delinquent investigations currently assigned, along with all new complaints. Timelines are critical issues affecting discipline and process improvement.

4.7.266b: Efforts should be made to eliminate the backlog of cases that have exceeded the 120-day time limit for investigations.

4.7.267 Assessing Compliance with Paragraphs 282 - 284

Paragraphs 282 – 284 are self-monitored by the City.

4.7.270 Assessing Compliance with Paragraph 285: Authority to Recommend Discipline

Paragraph 285 stipulates:

> **"The Executive Director, with approval of the agency, shall have the authority to recommend disciplinary action against officers involved in the incidents it reviews. The Bureau of Police Reform shall retain discretion over whether to impose discipline and the level of discipline to be imposed. If the Bureau of Police Reform decides to impose discipline other than what the agency recommends, the Bureau of Police Reform must provide a written report to the agency articulating the reasons its recommendations were not followed."**

Results

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

4.7.271 – 4.7.275 Assessing Compliance with Paragraph 286 - 290

Paragraphs 286 – 290 are self-monitored by the City.

4.7.276 Assessing Compliance with Paragraph 291: Community Outreach for the CPOA

Paragraph 291 stipulates:

> **"The City shall require the agency and the Executive Director to implement a program of community outreach aimed at soliciting public input from broad segments of the community in terms of geography, race, ethnicity, and socio-economic status."**

Methodology

In a prior reporting period, the responsibility for management and oversight of CPCs moved from APD to CPOA, providing opportunities for expanding community engagement. The CPOA, using the public platforms provided by each of the six CPCs, can now present proposed APD policies and programs and seek input from CPC members and other meeting participants during CPC meetings, which occur monthly in each of the seven area commands. During this reporting period, CPCs were involved in some policy and program reviews and have established a subcommittee to focus on these reviews.

The monitoring team still expects the City to fully staff CPOA, allowing the Director, in consultation with Board members, to broaden engagement activities that both implement the requirements of this CASA paragraph and address new ordinance requirements for CPC policy consultations. The monitoring team also expects the City to provide the CPOA with adequate resources to formalize processes for soliciting comments from CPC members and other community stakeholders regarding APD operations and policies to meet these paragraph requirements.

Results

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

Recommendation for paragraph 291:

4.7.276a: The City should conduct a detailed assessment of the workloads of the CPOA and the staffing necessary to effectively meet those workload requirements.

4.7.277 Assessing Compliance with Paragraph 292: Semi Annual Reports to Council

Paragraph 292 stipulates:

> **"The City shall require the agency to submit semi-annual reports to the City Council on its activities, including:**
>
> **a) number and type of complaints received and considered, including any dispositions by the Executive Director, the agency, and the Bureau of Police Reform;**
> **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 Bureau of Police Reform;**
> **d) number of officer-involved shootings received and considered, including any dispositions by the Executive Director, the agency, and the Chief Bureau of Police Reform;**
> **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

The CPOA was unable to complete the semi-annual report during this reporting period due to staffing challenges. The monitor understands that the CPOA is in the process of completing past and currently required semi- annual reports and that the Agency expects to be up to date in addressing this requirement before the end of the next reporting period.

Results

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

Recommendation for Paragraph 292:

4.7.277a: The City should develop a clear and accurate assessment of the staffing levels needed to meet the requirements of this paragraph.[78]

4.7.278 Assessing Compliance with Paragraph 320: Notice to Monitor of Officer Involved Shootings

Paragraph 320 stipulates:

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

Results

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

5.0 Summary

The change in compliance levels does not effectively demonstrate the progress made by APD and the CPOA during this reporting period. In this report, APD has demonstrated its commitment to policies, supervisory oversight, and, importantly, a disciplinary process that holds officers accountable when necessary. APD continues to decrease Level 2 and Level 3 uses of force. The CPOA has demonstrated the resolve to complete investigations at CASA standards despite the staffing issues with which it is faced. As the CPOA, and the City of Albuquerque continue their work becoming compliant with the remaining paragraphs, the monitoring team stands ready to provide assistance.

[78] We note that the City has recently hired a Contract Compliance Officer and a CPOA Executive Director. These new hires should help to reduce the staffing issues that we have noted in our recent reports.