

# Monitor's 20th 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

October 16, 2024

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## **1.0 Introduction**

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

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

The purpose of the monitor's periodic compliance reports is to inform the Court of the monitor's findings related to the progress made by APD in achieving compliance with the individual requirements of the Court Approved Settlement Agreement (CASA). This report covers the compliance efforts made by APD during the 20<sup>th</sup> reporting period, which covers February 1, 2024, through July 31, 2024.

## **2.0 Executive Summary**

The 20<sup>th</sup> monitor's report shows that APD continues to work to implement the requirements of the CASA fully, and the work has been shown in our analyses of their compliance process. During this reporting period, APD continued to meet CASA requirements. That work has moved the CASA compliance levels to rates higher than all previous reports.

Primary compliance stands at 100 percent. Secondary compliance also is at 100 percent. Operational compliance stands at 99 percent. These compliance levels are the result of focused executive-level commitment to compliance. As with any system, however, these processes require careful oversight of process, review, and reinforcement.

Although disciplinary practices have improved substantially, we have observed incidents in which IAPS and IAFD sustain charges against a member, only to find it "exonerated" or "unfounded" by the Pre-Determination Hearing (PDH) officer. This may be an issue reflective of the substantial policy and process changes within APD. We suggest that APD perform a substantial review of the current process and assess the cause of this intervention of external forces that change IAFD and IAPS findings. APD has developed a proposed solution to deal with these processes, which we will assess fully in IMR-21.

We continue to note that CPOA appears to be understaffed, and this understaffing continues to result in excessive workloads and missed timelines for investigations. We do note that the City has funded additional positions for CPOA investigators. We suggest that the CPOA Director and the City's Human Resources Department work together to fill these positions so that CPOA investigations can be completed within the timelines established by the CASA.

### **3.0 Synopsis of Findings for the 20<sup>th</sup> Reporting Period**

As of the end of the IMR-20 reporting period, APD's compliance levels are as follows:

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

### **4.0 Current Compliance Assessments**

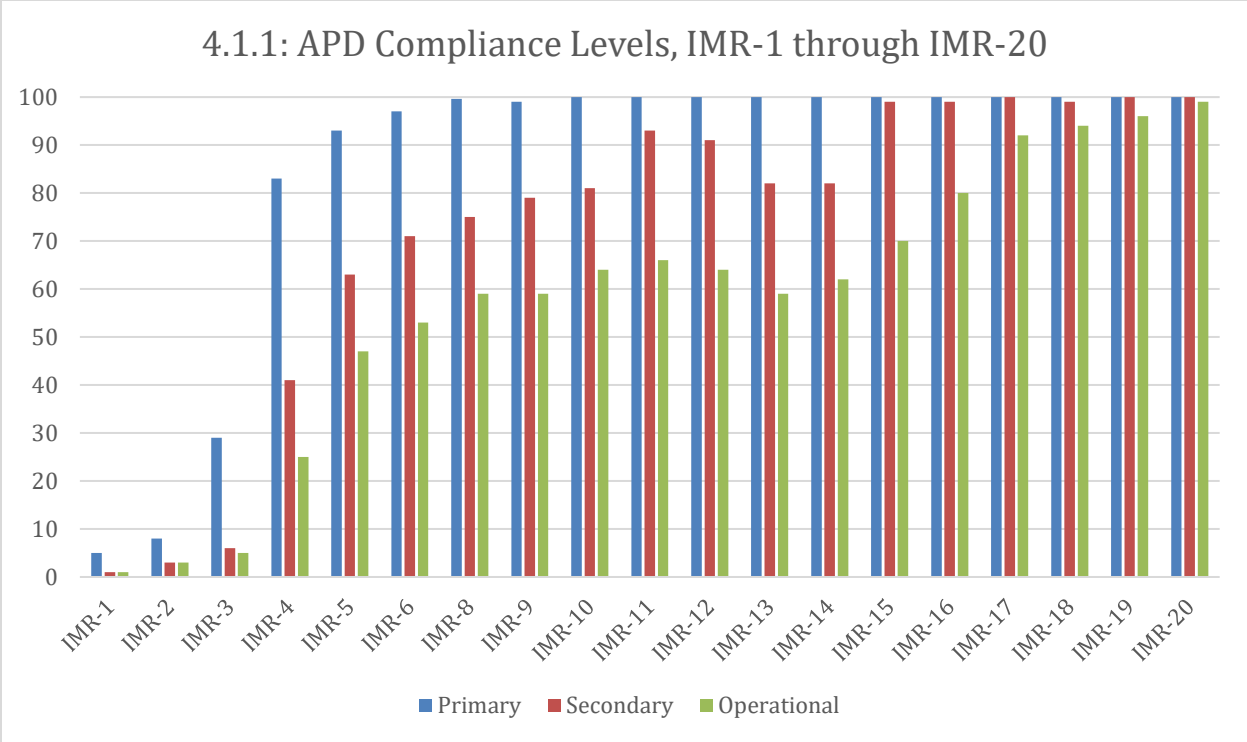
As part of the monitoring team's normal course of business, it established a baseline assessment of all paragraphs of the CASA for the Independent Monitor's first report (IMR-1)<sup>1</sup>. This was an attempt to provide the Parties with a snapshot of existing compliance levels and, more importantly, to 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-20, 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 on the following page.

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

APD remained consistent with its Primary Compliance and Secondary Compliance levels, which were determined to be 100 percent for this reporting period. During this reporting period, APD's Operational Compliance increased to 99 percent.

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



**4.2 Project Deliverables**

The 3<sup>rd</sup> 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 42 paragraphs monitored in this report. Three paragraphs in the 3<sup>rd</sup> Amended CASA were intentionally left blank, and two were updated to indicate they were non-rated introductory paragraphs. The remaining paragraphs have either been terminated or are being self-monitored by APD and the City of Albuquerque. We note these CASA paragraphs have been moved to APD self-monitoring or terminated based on the Parties' agreement and the monitor's concurrence<sup>2</sup>.

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

- I. Use of Force;
- II. Specialized Units;

<sup>2</sup> Final 3<sup>rd</sup> Amended CASA, paragraph 302.

- 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 twentieth monitor's report does not address in detail Sections (II), Specialized Units; (IV), Policies and Training; (VI), Staffing, Management, and Supervision; (VII), Recruitment, Selection, and Promotions (VIII), Officer Assistance and Support; (IX), or Community Engagement and Oversight, as APD is in full compliance with the requirements of these sections of the CASA. This report addresses the remaining three of these nine major areas.

#### **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, and through review of documentation provided by APD or the City which constituted documents prepared contemporaneously during the normal daily course of business. While the monitoring team did collect information provided directly by APD in response to the requirements of the CASA, those data were never used as a sole source of determining compliance. Still, they were used by the monitoring team as an explanation or clarification of process. All data collected by the monitoring team were one of two types:

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

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<sup>3</sup>. The first operational paragraph, under this rubric, is paragraph 14, as paragraph 13 is subsumed under paragraph 14’s

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<sup>3</sup> Available at: <https://www.justice.gov/usao-nm/file/796891/download>

requirements. We note that some paragraphs were changed in the 3<sup>rd</sup> Amended CASA.

#### **4.6.1 Methodology**

The monitor assessed the City and APD's compliance efforts during the 20<sup>th</sup> 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 periodically 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-20, additional CASA Paragraphs are being monitored by APD, as provided for by the CASA, once long-term compliance is established by APD, as per the monitor's findings.

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

APD's compliance with individual tasks for the 20<sup>th</sup> reporting period is described in the following sections.

##### **4.7.1- 4.7.3 Assessing Compliance with Paragraphs 14 - 45.**

**Paragraphs 14 – 17 and 24 – 37 are self-monitored by APD. Paragraph 38 was intentionally left blank in the 3<sup>rd</sup> Amended CASA. Paragraphs 18 - 23 and 39 - 45 have been terminated.**

##### **4.7.28 – 4.7.46 Assessing Compliance with Paragraphs 46-59: 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 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 four monitoring periods, APD has continued to improve the results of its Level 1 uses of force reviews. During this monitoring period, the reviews continue to be conducted in a very timely manner. The monitoring team did not observe any extension requests for Level 1 cases completed during this monitoring period.

Since August 1, 2023 (the first day of the 19<sup>th</sup> monitoring period), Level 1 use of force cases have been 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. During IMR-20, 85 Level 1 cases were initiated. Of these 85 cases, 72 were handled by the Level 1 review, and all 72 cases were completed within 22 days. The average length of time for the Level 1 team to complete these 72 cases was 8.9 days. The other 13 Level 1 cases were handled by IAFD (of these, eight cases were closed within IAFD deadlines) or by the Level 1 team (5 cases were not yet completed at the close of this monitoring period but were still within timelines on the last day of the reporting period).

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-20, APD's tracking data indicated that IAFD issued 249 requests for IA review of alleged policy violations associated with the use of force reviews and investigations.<sup>4</sup>

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

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<sup>4</sup> The IARs are for cases that occurred during IMR-20 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)
<b>IMR-12</b>	173	232	79	484	534
<b>IMR-13</b>	111	244	54	409	424
<b>IMR-14</b>	116	216	91	423	199
<b>IMR-15</b>	79	169	43	291	90 <sup>5</sup>
<b>IMR-16</b>	83	161	51	295	154
<b>IMR-17</b>	52 <sup>6</sup>	185	47	284	153
<b>IMR-18</b>	45	190	44	279	170
<b>IMR-19</b>	79 <sup>7</sup>	148	49	276	185
<b>IMR-20</b>	85 <sup>8</sup>	185	58	328	249

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 85 Level 1 use of force cases for supervisory review. In contrast, APD opened 79 Level 1 use of force cases for supervisory review during IMR-19, 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 five monitoring periods.

During this monitoring period, APD completed 77 of the 85 cases opened within this monitoring period. These cases were all completed within the cases' respective timelines. Seventy-two of these cases were investigated by the Level 1 team. Five cases completed during the monitoring period were investigated by IAFD, which has a 90-day window for completing cases.

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.

<sup>5</sup> The 90 IARs for IMR-15 reflect IARs between the period of August 1, 2021, and December 31, 2021.

<sup>6</sup> 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.

<sup>7</sup> This represents a 76% increase over the reported Level 1 uses of force during IMR-18.

<sup>8</sup> This represents a 7% increase over the reported Level 1 uses of force during IMR-19.

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 18<sup>th</sup> 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 respective timelines. This was the highest 30-day Level 1 case completion rate the monitoring team had observed as of the preparation of this report.<sup>9</sup> During IMR-17, APD completed 50 of the 52 Level 1 opened cases 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 this monitoring period, APD also completed cases that originated during the IMR-19 reporting period. APD completed a total of 84 Level 1 cases, regardless of the date of the force occurrence. Each of these cases was completed within its respective timeline.

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.<sup>10</sup>

During IMR-18, APD also completed cases that originated during the IMR-17 reporting period. During the 18<sup>th</sup> monitoring period, APD completed 46 Level 1 cases, including those cases that originated from the 17<sup>th</sup> 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,

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<sup>9</sup> 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.

<sup>10</sup> 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 timelines. It should be noted that APD filed an IAR for an Internal Affairs investigation for the misclassification of force that occurred in the field.

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 a matter of record, APD implemented its pilot program utilizing a dedicated team of APD personnel to conduct Level 1 reviews commencing in August 2022. As of August 1, 2023, APD began utilizing the Level 1 team exclusively to handle the review of all Level 1 uses of force. During the pilot program, the average completion time for the Level 1 case reviews was 9.7 days. During IMR-19, the first full monitoring period using the Level 1 team to exclusively review Level 1 cases, the Level 1 team had an average completion time of 11.9 days.

The monitoring team takes cognizance of the 76 percent increase in Level 1 cases from IMR-18 to IMR-19, as well as the seven percent increase of Level 1 cases from IMR-19 to this monitoring period. We will pay close attention to the effectiveness and efficiency of the Level 1 team and its compliance with timelines, especially to its past case completion rates.

As the table 4.7.28b below indicates, during the first three months (February through April) of the reporting period, 48 supervisory reviews were initiated, and 100 percent of the cases were completed within their respective deadlines. This is the second consecutive 100 percent case completion rate for Level 1 cases initiated during the first three months of a monitoring period.<sup>11</sup> 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.

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<sup>11</sup> The highest previously observed rate was 95% (which occurred in IMR-18).

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-20	48	48 (100%)	85	77 (91%)
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 15 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 the 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. The importance of properly categorizing force in the field cannot be overemphasized enough since that is the point in time that APD’s oversight of force is initiated. The cascading effect of classification errors infiltrates APD’s responsibilities toward officer and supervisor accountability, investigative response requirements for APD’s Level 1 team and IAFD, remediating tactical and training needs, ensuring the proper Force Review Board

oversight, and the responsibility to calculate force in annual reports accurately. We learned in December 2022, during the IMR-17 reporting period, that APD did not have a reliable technological means of querying incident numbers for officer uses of Low-Level Control Tactics (LLCT).

Historically, officers are not required to notify the chain of command immediately following the use of LLCT. Therefore, an officer's actions have not been routinely supervised as closely as incidents in which Level 1, 2, or 3 uses of force are reported. While even the most robust system can have failures from time to time, it is important for a learning organization to apply lessons from past system errors or gaps to avoid problems arising in the future. In short, this helps predict issues and institute measures before problems arise based on lessons learned rather than reacting to problems. In IMR-17, the monitoring team first wrote about our concerns regarding LLCT's and made specific recommendations for APD to implement to avoid future issues in this area

We wrote (in part) in IMR-17:

In a December 2022 communication to APD, the monitoring team provided technical assistance to help APD aggregate data regarding reported uses of LLCTs. While a long-term technological solution is considered to capture and audit instances of LLCTs properly, we recommended a short-term solution. Specifically, for any Field Services or Investigations Division with officers who report using LLCTs, the agency should mandate that event (e.g., incident number) be communicated to the APD compliance office regularly (e.g., weekly/monthly/bi-monthly). APD could implement additional or different short-term solutions, but we recommended they be instituted as quickly as practicable, and alerted APD that moving forward we would be asking for similar LLCT cases for review. We recommend APD institute its own auditing schedule of reported LLCTs to avoid additional unreported uses of force. In a similar vein, we suggest that APD implement a detailed review to determine current issues with LLCTs, and change policy, training and practice as appropriate.

For IMR-17, IMR-18, and IMR-19, the monitoring team requested incident case numbers where officers reported using LLCTs, but there was no accompanying reported use of force.<sup>12</sup> To satisfy data requests, APD conducted word search queries of their Records Management System (RMS), where officers complete their incident reports using terms such as "LLCT," "low-level control," and "low-level control tactics." They refined their search criteria to incidents that included an arrest report. These queries resulted in approximately 40 separate and distinct incident numbers in each of the past

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<sup>12</sup> Based on previous technical assistance, PMU began 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.

three monitoring periods. We have commented to APD on several occasions that the reported numbers seemed very low since they represented all area commands for 6-month periods. The monitoring team reviewed a sample of the LLCT case numbers we were provided and, in previous monitoring periods, identified instances where Level 1 or Level 2 uses of force were characterized as LLCTs. We alerted APD, and they set in motion the proper investigations of those cases. We note that in each case where we identified a failure to report force, the force itself was not problematic.

We made a similar data request for IMR-20 and had a similar result using the RMS query method. On May 15, 2024, we requested an “Excel Ledger/Report of all incident numbers where an officer listed their actions as low-level control tactics, and there was not an associated use of force reported” for the period of February 1 to May 15, 2024. That request resulted in 18 LLCT case numbers being provided. In a subsequent data request, the monitoring team requested a random sample of five of those LLCT cases, which represented a 28% sampling, for the monitoring team to review. In this sample, the monitoring team did not identify any unreported use of force as in past periods.

However, during the IMR-20 reporting period, APD implemented a new, more accurate technological means of identifying LLCT cases. Now, when completing incident reports in their RMS, officers are prompted to answer two yes/no questions: 1) Did you use a reportable use of force; and 2) Did you use low-level control tactics? Reports cannot be submitted without answering these two questions.

On May 31, 2024, APD promulgated Department Memorandum (DM) 24-44 alerting officers to the LLCT tab within their RMS and their continuing requirement to document LLCTs in the narrative of their reports.<sup>13</sup> For IMR-20, we requested the same LLCT data be provided using the past word search method, but also for any data collected using the new RMS tab.<sup>14</sup> This allowed the monitoring team to compare LLCT data given over the past three reporting periods against the new RMS fields, which disallowed an officer from submitting their reports without completing those two questions. We requested LLCT data using the word search method for the entirety of the IMR-20 period (February 1 – July 31, 2024) and all cases reported and captured in APD’s new RMS data fields, including May 10 to July 31, 2024. The resulting difference of reported data was significant.

The word search method that APD utilized since December 2022 (Reported LLCT, with an arrest report and no accompanying use of force) provided 41 separate and distinct LLCT case incident numbers, while the data provided by APD using the new LLCT tab resulted in 234 separate and distinct LLCT incident numbers. The total number of instances where officers reported using LLCTs (arrest report or not) was 326 incident numbers, and 96 of those instances did not include an arrest. It bears repeating that

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<sup>13</sup> Data captured and reported to the monitoring team actually began on May 10, 2024, which presumably indicates that the system went live before the DM was sent out.

<sup>14</sup> Following our receipt of an initial RMS spreadsheet we convened a meeting with APD to verify numbers we were provided. APD refined the spreadsheet to better reflect the data we were provided in prior data requests regarding LLCTs.

these RMS tab numbers represented a period of approximately 2 ½ months versus an entire six-month monitoring period for the past word search method of capturing LLCT data.

The concern APD should have is self-evident, and we have discussed our perspective with the APD staff overseeing CASA compliance. The monitoring team will look to see what additional protective measures APD puts in place to assess LLCT cases to avoid unreported uses of force. We also recommended that APD assess how their word search method could have produced such a disparate result in reported LLCT incidents. Since the term “low-level control tactic” is a defined term in APD policy and has become a part of APD’s vernacular, it is reasonable to assess what officers are or are not writing in their reports that would cause APD’s word search in RMS to miss this number of cases.

It is the collective opinion of the monitoring team that APD should analyze the case facts of the noted LLCT incidents discussed in the last reports to determine if any gaps exist in their training in assessing 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. Likewise, supervisors and on-call personnel need to develop an instinct to solicit information on cases, so they ask the right probing questions when not on-scene. This will ensure they have the correct perspective of an event before rendering opinions to officers.

Due to the recurring observations made during the review of LLCT cases during the last four monitoring periods, the monitoring team will continue to scrutinize LLCT data and APD’s handling of these discrepancies during the next monitoring period.

#### **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.”**

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 2 of this reporting period, APD submitted documentation indicating no deficient use of force investigations of the cases investigated by IAFD (93 cases) and the Level 1 Team (47 cases).

Seven internal investigations for deficient use of force investigations were completed. There were five sustained violations of SOP 2-57-4B(1): Supervisory On -Scene Responsibilities for Classifying Force. Two investigations resulted in findings of exonerated. One investigation resulted in an unfounded finding.

Four supervisors received sustained findings for a deficient on-scene investigation when classifying the level of force used. Four sergeants assigned to the Field Service Bureau accounted for the four sustained violations for misclassifying the level of force. All four sergeants received a written reprimand. All supervisors had the sustained violations documented in the employee work plan.

During this evaluation period, there were no sustained internal investigations for detectives or supervisors assigned to the Internal Affairs Force Division or the Level 1 Use of Force Review Team.

During this reporting period, APD submitted documentation indicating no deficient use of force investigations among the cases investigated by IAFD (152 cases) and the Level 1 Team (44 cases).

Five internal investigations for deficient Use of Force investigations were completed during this evaluation period. There were four sustained violations of SOP 2-57-4B(1): Supervisory On-Scene Responsibilities for Classifying Force. Three of the sustained violations were for the supervisor classification of force on-scene. One sustained violation was for the supervisory review of the use of force. One investigation resulted in an exonerated finding.

Three supervisors received sustained findings for a deficient on-scene investigation when classifying the level of force used. Two sergeants and one acting sergeant assigned to the Field Service Bureau accounted for the four sustained violations for misclassifying the level of force. One lieutenant and two sergeants received a written reprimand. The acting sergeant received a verbal reprimand.

Two supervisors failed to document the sustained SOP violation in the employee evaluations for Checkpoint 3. An internal affairs request was submitted for one sergeant. An internal affairs request was not submitted for one commander who did not document the sustained violation because the commander retired after completing the checkpoint.

During this evaluation period, there were no sustained internal investigations for detectives or supervisors assigned to the Internal Affairs Force Division or the Level 1 Use of Force Review Team.

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

**Paragraphs 48 – 51 are self-monitored by APD.**

#### **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 Paragraphs 55 and 56 are self-monitored by APD.**

**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 Paragraph 58 is self-monitored by APD.**

**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**

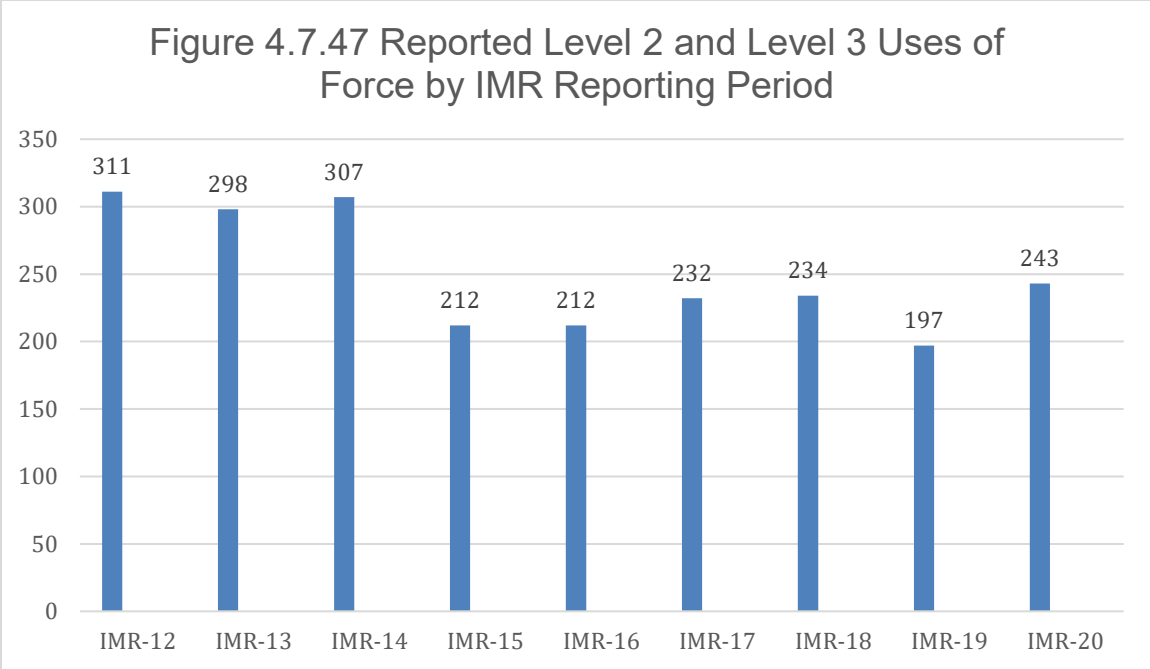
Based upon the Stipulated Order approved by the Court in 2021, the external force investigation team (EFIT) worked with APD’s Internal Affairs Force Division (IAFD)

members to conduct Level 2 and Level 3 force investigations involving APD personnel. Accordingly, from July 16, 2021, through December 5, 2023, EFIT and IAFD conducted Level 2 and Level 3 force investigations. While the appendices for this section of the report critically examine the Level 2 and Level 3 cases investigated during this monitoring period, the monitoring team takes cognizance of the significantly improved progress (in both punctuality and quality) achieved by APD in investigating and managing Level 2 and Level 3 use of force cases. We note that the EFIT is no longer involved with the APD case-review process.

During the IMR-20 reporting period (data current through August 2024), APD recorded a combined 243 Level 2 and Level 3 use of force cases, an increase of 46 cases from the 197<sup>15</sup> Level 2 and Level 3 use of force cases recorded in IMR-19. 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-20 reporting periods. These data indicate a significant reduction in the levels of more serious uses of force by APD over a multi-year period through IMR-19. Data for this multi-year period indicate that for the IMR 12 – IMR 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 15<sup>th</sup> and 16<sup>th</sup> reporting periods, compared to 307 uses of force in the 14<sup>th</sup> reporting period. Through IMR-19, this was a welcome change to the earlier data, which held steady in the 300+ range. These data are depicted in Figure 4.7.47 below.

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<sup>15</sup> The 197 Level 2 and Level 3 cases recorded in IMR-19 was a decrease of 37 cases from IMR-18.



The reported Level 2 and Level 3 uses of force for IMR-19 are down approximately 37 percent since the monitor’s 12<sup>th</sup> report. We consider these numbers to be significant. We do note the 23 percent increase APD has recorded from IMR-19 to IMR-20.

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-20, IAFD opened 185 Level 2 cases and 58 Level 3 cases. IAFD completed 206 Level 2 cases within the monitoring period and the cases were all completed within 90 days.<sup>16</sup> IAFD completed 65 Level 3 cases within the monitoring period; these cases were also all completed within 90 days of IAFD receiving the cases.<sup>17</sup>

At the close of the 20th monitoring period, IAFD had completed 109 of the 185 Level 2 use of force cases opened during the monitoring period. There were still 76 open Level 2 cases that had not been completed when the monitoring period closed on July 31, 2024. These cases will be examined during the 21st reporting period. We note that at the close of IMR-19, there were still 91 open Level 2 cases (opened during IMR-19 and not completed during that monitoring period). The monitoring team revisited those 91

<sup>16</sup> One of these cases was misclassified in the field and there was a 30-day delay in IAFD receiving the case. Nonetheless, IAFD completed the case within 90 days of receiving it.

<sup>17</sup> One case was unreported and IAFD did not receive it until 100 days after the force incident. Two unreported force incidents were discovered via PMU audits; one case was misclassified in the field. IAFD completed the cases within 90 days of receiving them.

open cases during IMR-20 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.

At the close of the 20th monitoring period, IAFD completed 38 of the 58 Level 3 use of force cases opened during the 20th monitoring period. There were still 20 cases opened during the monitoring period that had not been completed. These cases will be examined during the 21st reporting period. It should be noted that at the close of IMR-19, 27 Level 3 cases remained open (cases opened during IMR-19 and not completed during that monitoring period). The monitoring team reviewed those 27 open cases during IMR-20 and noted that all of those 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.

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, & Completed within the Rep. Period
IMR-20	92	92 (100%)	185	109 (59%) <sup>18</sup>
IMR-19	53	53 (100%)	148	57 (39%) <sup>19</sup>
IMR-18	79	79 (100%)	190	85 (45%) <sup>20</sup>
IMR-17	96	96 (100%)	185	101 (55%) <sup>21</sup>
IMR-16	79	79 (100%) <sup>22</sup>	161	81 (50%) <sup>23</sup>
IMR-15	99	97 (98%) <sup>24</sup>	169	101 (60%) <sup>25</sup>
IMR-14	117	1 (0.9%)	216	1 (0.5%)
IMR-13	126	3 (2%)	244	3 (1%)
IMR-12	108	97 (90%)	232	106 (46%)

<sup>18</sup> IAFD completed a total of 206 cases during IMR-20 (regardless of when the cases were opened) with all of the cases completed within 90 days of the use of force.

<sup>19</sup> 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.

<sup>20</sup> 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.

<sup>21</sup> 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.

<sup>22</sup> 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.

<sup>23</sup> 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.

<sup>24</sup> One case was determined to not be a force case and one case involved a criminal referral handled by IAPS from the onset outside of the purview of IAFD and EFIT.

<sup>25</sup> 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, & Completed within the Rep. Period
IMR-20	29	29 (100%)	58	38 (66%) <sup>26</sup>
IMR-19	22	22 (100%)	49	22 (45%) <sup>27</sup>
IMR-18	18	18 (100%)	44	18 (41%) <sup>28</sup>
IMR-17	27	27 (100%) <sup>29</sup>	47	28 (60%) <sup>30</sup>
IMR-16	26	26 (100%) <sup>31</sup>	51	26 (51%) <sup>32</sup>
IMR-15	30	30 (100%)	43	30 (70%) <sup>33</sup>
IMR-14	42	0 (0%)	91	0 (0%)
IMR-13	37	2 (5%)	54	2 (4%)
IMR-12	25	21 (84%)	79	24 (30%)

As noted, evidence reveals that productivity levels from earlier monitoring periods have completely reversed and have stabilized 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 through IMR-19 has been maintained during this reporting period. An 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 now that IAFD has the sole responsibility and oversight (along with the APD executive staff) of investigating and managing the caseload of Level 2 and

<sup>26</sup> IAFD completed a total of 65 Level 3 cases during IMR-20 (regardless of when the cases were opened).

<sup>27</sup> IAFD completed a total of 56 Level 3 cases during IMR-19 (regardless of when the cases were opened).

<sup>28</sup> IAFD completed a total of 37 Level 3 cases during IMR-18 (regardless of when the cases were opened).

<sup>29</sup> 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.

<sup>30</sup> IAFD completed a total of 54 Level 3 cases during IMR-17 (regardless of when the case was opened).

<sup>31</sup> 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.

<sup>32</sup> IAFD completed a total of 37 cases during IMR-16 (regardless of when the case was opened).

<sup>33</sup> One case was delayed due to an involved officer being injured and unable to be interviewed and another case involved a criminal referral handled by IAPS from the onset outside of the purview of IAFD and EFIT. Neither of these cases were counted against IAFD/EFIT.

Level 3 uses of force. As always, the monitoring team is available to provide feedback to APD about how best to optimize the ways they address their caseload.

The monitoring team conducted a review of Level 2 and Level 3 uses of force drawn from samples taken throughout the reporting period. We note that cases involving an ECW are detailed in this section of the report as well as in Paragraphs 41-59, where applicable. 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 28 Level 2 and Level 3 UoF cases.*

#### Observations and Comments

APD is still developing a policy to guide its officers' actions when using a Grappler device to disable vehicles. The monitoring team has reviewed some draft policies on this technology to date and will continue to do so as needed.

As noted in IMR-19 and prior reports, APD officers need to 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.

#### **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 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 Paragraph 62 is self-monitored by APD.**

#### **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 - 4.7.55 Paragraphs 64 – 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 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 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**

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 supports compliance with the requirements of this paragraph. We conducted thorough reviews of seven specific cases the FRB

heard during this monitoring period,<sup>34</sup> corresponded with APD personnel responsible for administering FRB meetings, and requested additional relevant data that the department provided. We also met with FRB personnel during our June 2024 site visit to discuss the status of FRB operations.

## Results

As noted in prior reports, the updated FRB SOP 2-58 was approved by the monitor and first promulgated on January 30, 2024. The current SOP was updated and is due for review on January 25, 2025. In IMR-19, we noted our review of an October 31, 2023, Interoffice Memorandum from the Deputy Chief of Accountability to the Chief of Police entitled, "Improvements for the Force Review Board." Within this memorandum were several improvement measures APD intended to implement regarding the FRB. The FRB is chaired by a Deputy Chief who has proven reliable in his oversight of FRB matters in the past. In our opinion, he was the single most important representative of the FRB when it first began to demonstrate legitimate oversight of APD's use of force systems. The tone and tenor of the FRB meetings we attended during this monitoring period were professional and well-managed.

As noted in prior monitor reports, APD and its Academy created a two-day training program for new FRB members. That training was reviewed and previously approved by the monitoring team. The 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. As with IMR-19, no FRB training programs were delivered by APD during this monitoring period. Since it will now be more than a year since an FRB training program was conducted, we recommend APD look closely at this fact and ensure the FRB training program adequately reflects current business practices, policy and the CASA, and that relevant organizational issues and needs are incorporated into the training. Annual reviews of training programs are a good business practice, but because the FRB occupies such an integral part of the force oversight process, it should receive even closer assessment and review.

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 are assigned for referrals that were still pending.

The monitoring team was provided ledgers for FRB cases heard between February 1, 2024, and July 31, 2024. During this monitoring period, the FRB meetings generated

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<sup>34</sup> The monitoring team requested a ledger of cases that the FRB had heard (to May 15, 2024) during this reporting period. At that time the ledger listed 24 separate Level 2/3 cases (including five officer-involved shooting cases) that were available for our review. The monitoring team selected all five OIS cases, and two additional cases that were selected randomly, representing a 29% sample of all the available cases. As we document later, data provided following the close of IMR-20 showed there were a total of 36 Level 2/3 cases heard by the FRB across the entire monitoring period.

11 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 directive to IAFD to review an incident to see if additional force by an officer was present. 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 20<sup>th</sup> 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, in-custody deaths, and Level 2 and Level 3 uses of force. The Chair of the FRB continues to ensure each voting member has reviewed the case file materials in preparation for the meeting, and each member is required to verbally acknowledge if they have reviewed the materials. That acknowledgment provides the Chairperson confidence in the scrutiny a case is receiving from each FRB member and allows for meaningful discussions about cases. The resulting robust discussions are valuable when assessing individual cases, but as important is the understanding FRB members gain about APD operations in the field that can help inform organization-level decisions.

As noted above, the FRB must demonstrate it has met the requirement to "...provide management oversight" during the meetings they hold. This requirement is the context in which the paragraph is viewed and is the central tenet of the FRB. As we have previously noted, we have seen major advances by the FRB, but we have also outlined serious concerns as recently as IMR-17 and IMR-18. Our observations of APD's FRB during IMR-19 and IMR-20 has not revealed any of the issues we noted for IMR-17 and IMR-18.

The monitoring team selected seven cases that the FRB heard during the first three months of the monitoring period, representing 29 percent of the cases then available. 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.<sup>35</sup>

Table 4.7.65 summarizes our reviews of the use of force cases discussed above.

Table 4.7.65

Para	Paragraph Provision	IMR-20-43	IMR-20-44	IMR-20-45	IMR-20-46	IMR-20-47	IMR-20-48	IMR-20-49
78	Provide management oversight of tactical activations and Level 2 and Level 3 uses of force.	Y	Y	Y	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	Y
78b	Hear the presentation from the Internal Affairs Division or Special Operations Division chain of command.	Y	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	Y
78c	Determine whether the incident raises misconduct, policy, training, equipment, or tactical concerns,	Y	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	Y
78d	Document its findings and recommendations within 15 business days of the Force Review Board presentation;	Y	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,

<sup>35</sup> 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 considered for Operational Compliance of this paragraph.

putting APD in compliance with Paragraph 78a. There were three instances in which older cases being investigated by EFIT were heard after 60 days<sup>36</sup>, but based on our review of available data, APD has complied with Paragraph 78a.

Through our discussions with APD and our data review, we confirmed they continue to apply the August 2023 methodology submitted for our review. We were able to review an August 14, 2024, Interoffice Memorandum, submitted following the monitoring period but related to the meetings held within it, that assessed the application of the August 2023 methodology. APD assessed that overall, the FRB reviewed 11% of completed force investigations, which is slightly below the projected percentage range (12%-18%) noted in the August 2023 methodology. We also note that the numbers calculated include EFIT backlog cases, which would drop the number of contemporary cases being heard by the FRB. While there is value in the lessons that can be learned from older cases, the more contemporary cases are those that can best reflect needs in the field that will inform training programs. We confirmed with APD that the FRB is finished with hearing EFIT cases. Since the number of cases being heard will remain the same, there will be a natural increase in current cases being reviewed. We also learned that by October 2024, the FRB unit will be presenting data to the FRB to assess and, if necessary, adjust the methodology for choosing cases for the FRB. With diligent oversight, we expect APD will be able to maintain its compliance with 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 a case. During this monitoring period, APD held 12 separate and distinct FRB meetings. The following are statistics related to the performance of the FRB during the IMR-20 reporting period:

- A total of 44 use of force, in custody death, and tactical activation cases were reviewed by the FRB.
- Of the 44 cases reviewed, 6 were tactical activations.
- Of the 44 cases, 36<sup>37</sup> were uses of force, and the breakdown included:
  - 26 Level 2 use of force cases;
  - 10 Level 3 use of force cases;
    - Seven Level 3 officer-involved shooting (OIS) cases; and
    - Three additional Level 3 cases;
  - 12 of the 36 cases were EFIT backlog cases
    - 9 cases from 2020
    - 3 cases from 2021.

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

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<sup>36</sup> The time to hear cases moved from 30 to 60 days when the 3<sup>rd</sup> Amended CASA was instituted. Despite this move, data we reviewed showed that cases were still being (routinely) heard in 30 days or less during this monitoring period Those that missed the 30-day threshold did so by only two days.

<sup>37</sup> The reader should note that an individual use of force event can involve multiple uses of force.

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-20 monitoring period, we were provided quarterly trend report data for the 4<sup>th</sup> quarter of 2023, which was presented to the FRB on February 1, 2024, and the 1<sup>st</sup> quarter of 2024, which the FRB heard on May 2, 2024. We found the presentation to be professional and inclusive of significant relevant force data. Based on our review of available data, we see the FRB's performance with respect to reviewing and analyzing the use of force data complies with Paragraph 78e.

Toward the latter part of this monitoring period, APD proposed adjusting how they present cases to the FRB. The intent was to have an assigned case presenter to introduce a degree of standardization to the FRB and reduce the preparation burden on IAFD personnel. The IAFD investigator and supervisor would still be present at the meeting to answer questions that may arise about a specific case since they would be best able to answer the nuanced questions that can sometimes occur. After consultation with APD and DOJ, and contingent on the attendance of the relevant IAFD personnel, the monitoring team agreed that an assigned case presenter would be sufficient to meet the requirements of this paragraph.

On July 31, 2024, the monitor was provided a letter from the parties regarding their perspective on assessing compliance with Paragraph 78c. The letter was in response to a conversation that took place during the monitoring team's June 2024 site visit, where representatives of the City and DOJ attended a meeting regarding the FRB. As now provided in the CASA, if IAFD takes 120 days to complete a case, and the FRB was to hear the case at any point during the 60-day requirement outlined in P78a, and the FRB sees potential misconduct in that case, the APD executives on the FRB would be precluded from initiating an administrative investigation that could result in discipline against a subject officer due to CBA restrictions.<sup>38</sup>

The monitoring team has been consistent and unequivocal with respect to this topic, even as the CASA language has been amended. In our view, for the FRB to meet its responsibility of 78c it must (1) "...maintain management oversight " of uses of force, and (2) "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". Therefore, the FRB must be able to refer misconduct for investigation and adjudication within the CBA timelines.<sup>39</sup> The appropriate unit to refer misconduct allegations is APD Internal Affairs, and the resolution of sustained allegations of misconduct can (at times) be discipline. The FRB has never been, nor should it be, a final arbiter to make policy compliance determinations or impose discipline. That said, FRB representatives' obligations to refer

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<sup>38</sup> As noted in the letter to the monitor, the CBA allows exceptions to the time rule if the misconduct is egregious enough to warrant a level 1 or 2 sanction.

<sup>39</sup> Currently, the CBA requires the imposition of discipline within 120 days. APD has historically interpreted that timeline to begin at the time a use force occurs regardless of whether a matter of misconduct is identified on that day or as the case progresses through the chain of reviews.

potential officer misconduct rests first as an APD officer, and then as an executive representative of the FRB.<sup>40</sup>

The APOA CBA prevents APD from imposing discipline for misconduct more than 120 days after it occurs. IAFD case completion rates remain relatively steady at 88-90 days from the time of an event, and the FRB Unit has been diligent in scheduling cases for the FRB within 30 days before the 3rd Amended CASA changed 78c to 60 days.<sup>41</sup> While the CASA now provides that IAFD investigations be completed within a timeline commensurate with the CBA timeline for discipline (120 days), the fact that APD currently requires the cases be completed within 90 days demonstrates APD may apply stricter standards than the CASA to ensure the FRB's ability to make proper misconduct referrals. Notwithstanding the need to reduce the timeline for force investigations that are completed generally, the combined efforts of IAFD and the FRB resulted in the FRB attaining and sustaining compliance with 78c during IMR-20.

The FRB is the organizational "overwatch" for the use of force system. The monitoring team has written extensively about the importance of the FRB in setting the tone for APD's force system. When this project started, the FRB's apathy toward accountability was evident; consequently, the reform effort was slow. However, when the top-tier executives of the department, in this case at the FRB, began to demonstrate their engagement with the process several monitoring periods ago, the turn toward compliance was obvious. Because the FRB was familiar with case facts, challenged investigators and their findings, and sometimes uncovered misconduct issues and referred those cases to be investigated, the agency took notice. The proper tone was set, and the FRB began to model how the agency should act with respect to supervision and accountability. There has never been a suggestion that the FRB is or should be a disciplinary board. That said, in our opinion, it would be imprudent in the long-term to indirectly dilute the accountability of the FRB itself in any way regarding referrals of misconduct. We believe that maintaining a timeline that naturally extends the use of force system past the 120-day threshold to impose discipline may leave the accountability process vulnerable.

The letter included the view that, "...the FRB may still comply with subparagraph c without imposing discipline for misconduct it identifies during its review, as long as the FRB still takes action to resolve concerns related to the misconduct (such as referring the involved officer for training)." When considering training referrals as a viable remediation method for misconduct, consider the following. A member of the monitoring team attended an FRB meeting after the close of this monitoring period. The FRB thoughtfully requested analysis on organizational training referrals and learned that the bulk of organizational training referrals emanate from the same source (IAFD). Those generated by the FRB are addressed at the same place, the APD academy. At the time, training referrals were backlogged for four months, meaning, on average, a

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<sup>40</sup> Instances of misconduct referrals by the FRB have been infrequent since the FRB has stepped forward in its responsibilities in this area.

<sup>41</sup> As we documented earlier, even now the FRB is hearing cases close to or within 30 days once alerted by IAFD, which is well within the allotted 60-day timeline.

training referral takes four months to be addressed due to a lack of Academy resources. The issue continues to compound, and the process is described as “a system in distress.” APD has a historical tendency to use allotted timelines to their extreme. At present, if an IAFD case were to take 120 days to complete, and the FRB heard the case 60 days after and made a training referral, and the current time to receive training from that referral is 120 days (4 months), the time to remediate officer conduct could be ten months from an event. We will discuss this further in IMR-21 after meeting again with APD.

The monitor takes cognizance of the letter provided by the City on behalf of the Parties. We have always recognized that the primary role of the FRB is not to be a level of review for every force case, and it should focus energy on organization-level issues.

Finally, during an FRB meeting attended by the monitoring team on March 14, 2024, an issue emerged during a case presentation that should be discussed among the top echelon of APD.<sup>42</sup> An out-of-policy use of force was presented, and the FRB members in the room were clearly in agreement with the findings based on their reviews, and they even challenged the veracity of the officer’s account of the event. However, during the meeting, IAFD and the FRB learned that an associated internal affairs investigation exonerated the officer for the out-of-policy use of force. Having two organizational units look at the same facts and circumstances and deliver two different administrative findings is one issue, but the way this played out in the FRB is a concern that APD should resolve.<sup>43</sup> We have previously commented on how issues like this can chill enthusiasm for IAFD investigators when they conduct thorough investigations and make credible findings. We will explore this further during the next monitoring period.

We appreciate the efforts of the FRB unit staff, and it is our assessment that for IMR-20, the FRB members have continued to demonstrate the performance needed to maintain Operational Compliance with Paragraph 78. The FRB attendees were engaged in a meaningful way during meetings and asked insightful questions. We suggest that succession planning become a priority for the APD Executive Staff to ensure that good performance can be sustained in the future.

## **Results**

Based on our review of available data and cases during this monitoring period, we have determined that the FRB has maintained Operational Compliance for Paragraph 78. To sustain Operation Compliance, APD must continue 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.

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<sup>42</sup> Case incident number: IMR-20-55.

<sup>43</sup> The monitoring team is familiar with the roles associated with IAFD and IAPS and have engaged extensively on this topic with APD in past monitoring periods. APD has created a process to address this issue which we will fully discuss in IMR-21.



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

Monitor's Notes:

1. APD should review its FRB training program so it adequately reflects current business practices, policy and the CASA, and that relevant organizational issues and needs are incorporated into the training.
2. APD and the Office of the Superintendent of Reform should reconcile how administrative findings of misconduct are determined and ensure that reconciliation occurs, when possible before a case is presented to the FRB.

#### **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 provisions within the paragraph had been met and were provided in the Annual Use of Force Report 2023, which was published during the IMR-20 monitoring period.

We reviewed the report's content and found it to be professionally prepared and contain the required information to comply with Paragraph 79. 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 continue to monitor the uses of force, serious uses of force, low-level control tactics, and shows of force for reporting any discrepancies that may be present. Reporting errors must be reconciled to ensure that statistics published in APD's Annual Use of Force Reports are accurate.

APD should routinely audit Low-Level Control Tactics incidents to ensure proper categorization is taking place. Data collected from these audits should inform the Annual Use of Force reports, and when appropriate, problematic cases should be referred to IA and the Academy.

### **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 – 4.96. Paragraphs 81 – 109 were terminated.**

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

This paragraph is a Non-Rated Paragraph.

**4.7.98 – 4.7.113 Paragraphs 111 – 117 and 119 – 122 have been terminated. Paragraph 118 is unmeasured. Paragraphs 123 - 126 are self-monitored by APD.**

**4.7.114 Assessing Compliance with Paragraph 127**

[THIS PARAGRAPH INTENTIONALLY LEFT BLANK.]

**4.7.115 Paragraph 128 is self-monitored by APD.**

**4.7.116 – 4.7.124 Assessing Compliance with Paragraphs 129 - 137**

**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).

### **Results:**

The monitor reviewed the course of business documents for this reporting period to assess compliance with the requirements of this paragraph. We found APD in compliance with the eight requirements in this paragraph.

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

**4.7.117 – 4.7.148 Paragraphs 130 – 137 are self-monitored by APD. 139 – 161 have been terminated.**

### **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 – 4.7.175 Paragraphs 163 – 182 are terminated.**

**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 the investigation of misconduct complaints. These paragraphs require that all relevant evidence be considered and that those investigations are fair, impartial, and reach reliable findings. They also require time limits for the completion of investigations.

During the 20th reporting period, monitoring team members reviewed a stratified random sampling of ten investigations for which IAPS was responsible (six completed by IAPS and four completed by the area commands): [IMR-20-56], [IMR-20-57], [IMR-20-58], [IMR-20-59], [IMR-20-60], [IMR-20-61], [IMR-20-62], [IMR-20-63], [IMR-20-64], and [IMR-20-65]. 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 CPOA Executive Director, and the IAPS Commander.

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. 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 by IAPS remain in compliance with policy and CASA requirements. 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 commands 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 not requested or required technical assistance during this reporting period. The communication process among the parties and monitoring team regarding intake and discipline has been maintained. We noted that during the IMR-18 monitoring period, APD implemented an electronic Dashboard system to provide supervisors within 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 conduct these internal investigations.

During this monitoring period, we note that an outside investigative entity conducted one investigation for APD. APD also reported that the current oversight protocols established by City Legal remain in effect for cases investigated by outside entities. We also note that our stratified random sample of investigations completed by APD during this reporting period revealed no investigations that were deficient. Regarding those investigations conducted by the area commands, we continue to see effective compliance. All four area command cases reviewed during this period complied with the requirements of paragraphs 183, 190, and 191. This continues to be a success for APD

Our review indicates a 100% operational compliance rate for cases under the oversight of IAPS during 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.

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 Paragraphs 183 and 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, two of the 20 cases exceeded the time requirements for investigation or review. The review also indicated one case was time-barred for discipline due to the fact that the notification letter to the subject officer was not sent within the 15-day time limit, as per the CBA. This equates to an 85 percent compliance rate for paragraph 191 for the random sample of cases, a 30 percent improvement compared to IMR-19. At the end of this reporting period, the CPOA had 84 incomplete investigations over 120 days from the date assigned or when the subject letters were sent. 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 additional investigators and an Intake Manager, similar to the IAPS CIM position, to improve the intake process and additional investigators. 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 74 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 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.”

## **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**

### ***Recommendations for Paragraph 191***

***4.7.177a: Although the City has refocused its efforts on adequate staffing for CPOA by allocating additional funds to hire more staff, it should focus on conducting a quantitative analysis of the reasons that cause any case to be delayed past 120 days.***



**4.7.178-4.7.186 Paragraphs 192 – 194 are self-monitored by APD. Paragraphs 195 – 197 are terminated.**

#### **4.7.184 – 4.7.186 Assessing Compliance with Paragraph 198**

Staffing Requirements of Paragraph 198 of the CASA require the City to adequately fund and resource the internal affairs functions (IAPS, CPOA, and the CPOA Board). The monitoring team met with IAPS and CPOA during our site visit for this reporting period. It should be noted that IAPS has relocated to an off-site facility that they share with the Internal Affairs Force Division. The new location is in a stand-alone professional building with adequate office space for all IAPS personnel. The CPOA remains in the same location that it has for several years. The CPOA has obviously outgrown the space allocated to them, as several investigators are assigned to the same offices, and no formal interview rooms are available. It has been reported that the City is examining other possible facilities, but no movement has occurred during this reporting period. The monitoring team discussed the staffing needs, reviewed staffing charts, assessed the timeliness of processing complaints and information of potential misconduct in randomly selected investigations, and assessed the quality of those investigations. The findings related to Paragraph 198 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. The Superintendent of Reform and two Deputies continued to operate and oversee the disciplinary process for APD and have performed all required functions. 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, maintained its processes during this period.

We recommend careful supervision to continuously monitor the incoming caseload to ensure adequate staff exists 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.” In IMR19, 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 has approved the hiring of three additional investigators, but the positions have not been filled as of the end of this reporting period. The CPOA Board was fully staffed with five members as of the end of IMR19. That board was trained and met for the first time in February 2024. In May 2024, the board heard their first appeal cases. Unfortunately, in July 2024, one of the board members resigned, leaving four members. The City is processing the replacement for that vacancy. Fortunately, the board can meet with a quorum of three members, so it continues to fulfill its mission.

During this reporting period, the Executive Director addressed all investigations that resulted in sustained findings and forwarded them to the APD. In this monitoring period, the reviews of the stratified random sampling of 20 CPOA investigations indicated that 85 percent of those cases were investigated and completed within the required time limit. This is a 54.5 percent change improvement from the 55 percent compliance rate during IMR-19. This improvement is noteworthy but still falls short of the 95 percent compliance rate required to be considered Operationally Compliant. The fact that there were 84 additional investigations not yet completed that were outside of the time requirements also dramatically reduces the overall compliance with paragraph 191. The non-compliance indicates the continued staffing and supervision deficiencies we have 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 an Executive Director, a newly hired Deputy Director, two analysts, and seven full-time investigators. The underlying issue of adequate staffing rests with the ability of each investigator to complete investigations within the time requirements. According to the Executive Director, CPOA received over 700 civilian complaints in 2023 and 456 during this monitoring period alone. Of the 456 complaints, 207 required full investigations. CPOA continues to struggle to get enough investigative staff to meet its responsibilities. Their staffing has increased from six to seven full-time investigators, but most of their staff are new and will be required to learn the process to become more efficient.

Not surprisingly, we noted a deficiency 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 (staffing) and a lack of supervision due to a lack of staffing. During most of 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 Executive Director 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 end up with sustained findings that cannot be disciplined due to those timelines. During this period, one of the reviewed cases resulted in "time-barred" discipline, but the reason it was time-barred was because the notification letter was not sent to the subject officer within the 15-day time limit, as mandated by the CBA.

From the monitor's perspective, progress has been made, but 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.

We note that the Executive Director's and the Deputy Director's positions are now filled. Unfortunately, until the end of this reporting period, only the Executive Director, who was the prior Lead Investigator, was tasked with completing the intake of the over 700 complaints in 2023 and the 456 complaints since February 1, 2024. The Executive Director was responsible for training the three newly hired investigators and conducting the only review of all completed investigations. The workload on the Executive Director remains excessive and unsustainable. To date, no available information has been provided concerning the results of any staffing study for the CPOA. This staffing study has reportedly been "underway" for an extended period and has yet to yield results, recommendations, or insights into CPOA work-flow issues. We see this as a critical compliance issue.

#### **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 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.***

***4.7.184b: The CPOA Executive Director should develop specific measures of workflow, the time needed to complete the “average” CPOA investigation, and the time needed to assess and perform quality control processes.***

***4.7.184c: 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 to establish mandatory staffing levels and enable the CPOA to complete its investigations within the allotted time requirements.***

**4.7.185 Paragraphs 199 - 200 are self-monitored by APD.**

#### **4.7.187 Assessing Compliance with Paragraph 201: Fact-Based Discipline**

Paragraph 201 requires discipline to be fact-based and imposed for sustained violations based on appropriate and articulated consideration of aggravating and mitigating circumstances. Paragraph 202 requires 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. We do not discuss Paragraph 202 in this section, as it is in self-assessment by APD.

In major disciplinary actions in which the proposed discipline is 40 hours or less, the first line of review is the Public Integrity Commander (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.

As a result of this consolidation of disciplinary authorities, and other marked process improvements, more uniformity in conducting disciplinary analyses and a notable improvement in the consistency of the outcomes have taken root.

#### **Disciplinary Case Review**

The monitoring team reviewed a stratified random sample of 24 cases in which an allegation or allegations were sustained, resulting in a disciplinary analysis. In that review, we identified seven cases in which there was the potential for major discipline: [IMR-20-66] [IMR-20-67], [IMR-20-68], [IMR-20-69], [IMR-20-70], [IMR-20-71], and [IMR-20-72].

We reviewed four cases with appeals from which we reviewed both the imposition of discipline as well as the appeal itself: [IMR-20-73], [IMR-20-74], [IMR-20-75], and [IMR-20-76].

In addition, we reviewed 13 cases that were described as minor disciplinary cases: [IMR-20-77], [IMR-20-78], [IMR-20-79], [IMR-20-80], [IMR-20-81], [IMR-20-82], [IMR-20-83], [IMR-20-84], [IMR-20-85], [IMR-20-86], [IMR-20-87], [IMR-20-88], and [IMR-20-89].

The above-noted process enhancements have yielded noticeable improvements in adherence to the tenets of progressive discipline and a steadily increasing compliance rate. This steady increase has culminated in our finding of no cases among the 24 cited above where we found discipline to be deficient. This represents a noteworthy compliance rate of 100% for the case reviews conducted and reflects a steadfast commitment to effectiveness on the part of the disciplinary authorities and those who conduct the investigations and prepare the disciplinary packets for consideration.

There are two cases we reviewed that, although we find under the totality of circumstances the discipline imposed to be appropriate, a more detailed articulation of the disciplinary decision could have been given. These cases, [IMR-20-87] and [IMR-20-71], both involved findings that should have contained a more robust explanation regarding the weighing of mitigating factors against aggravating factors when determining the appropriate level of discipline (minimum, presumptive, and maximum) within an applicable range.

[IMR-20-87] involved a sustained violation of 3.33.8E2, (failure to conduct a PEMS review within the deadline), a Class 6 performance violation. Although there were prior offenses in the subject's record, including three non-disciplinary corrective actions (NDCA), one verbal reprimand, and two written reprimands, none counted for purposes of enhancing the applicable range (progressive discipline). A good explanation of mitigating factors was set forth, and an NDCA, the minimum within the applicable range, was imposed. Although the resolution was within the applicable range, and mitigating factors were cited, a more convincing explanation could have been given as to why the mitigating factors outweighed the prior offenses to the extent that the minimum level within the range was appropriate. In addition, the NDCA form set forth the mitigating factors but did not specify what corrective action was taken (although comments in the Internal Complaint Disposition Form indicate a policy review).

[IMR-20-71] involved a sustained violation of 2.8.5.B (mandatory recording), a Class 6 misconduct offense. No prior offenses counted for purposes of progressive discipline; thus, this was viewed as a 6M first offense, the range for which is NDCA to an 8-hour suspension. A written reprimand, the presumptive discipline, was imposed. Although no prior offenses counted as progressive discipline, the subject had two significant past offenses, one for a confidentiality violation that resulted in a 120-day suspension and another for an integrity violation that resulted in a 16-hour suspension. Comments by the disciplinary authority reflected that these prior offenses were considered when selecting the level of discipline within the range; however, a more convincing explanation could have been given as to why the mitigating factors outweighed the prior

offenses to the extent that the maximum discipline within the range was not warranted. In light of the requirements of ¶190 of the CASA to "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," whenever there is a prior offense that may have involved deception or untruthfulness, an explanation should be given to whether the prior offense did or did not impact the selection of the discipline within the applicable range and the reasons therefor. This would conform with best practices.

As stated, we have not found any disciplinary decisions in the IMR-20 reporting period to be deficient. Overall, we find the disciplinary authorities have greatly improved in weighing the aggravating and mitigating factors and in articulating that balancing when making disciplinary findings. Three distinct examples of such improvement were found in [IMR-20-75], [IIMR-20-66] and [IMR-20-67], all of which involved insightful weighing and balancing of aggravating and mitigating factors in PDH findings and clear articulations thereof.

## **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: [IMR-20-73], [IMR-20-74], [IMR-20-75], and [IMR-20-76] in which sustained charges and discipline were imposed. All involved internal appeals are considered by a disciplinary authority. No external appeals reported by APD were completed during the IMR-20 reporting period.

In these internal appeals, we found that both the underlying discipline as well as the handling of the appeal to be appropriate. As in the three previous monitor's reports, we continue to find the City's and APD's appeal efforts to be appropriate.

## **Non-Concurrence Letters**

The monitoring team reviewed the four non-concurrence letters issued during the IMR-20 reporting period: [IMR-20-90], [IMR-20-91], [IMR-20-92] and [IMR-20-93]. In all four, we find the non-concurrence letters to be adequate in explaining the thought process of the disciplinary authority in disagreeing with the CPOA findings. The reasoning was appropriate.

As a matter of best practices, 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 detailed enough to clearly understand the disciplinary authority's thought process should be provided, commensurate with the degree of the non-concurrence.

MONITOR'S NOTE: In our past disciplinary reviews, we have noticed PDH or appeal hearings in which a subject officer introduces an aspect of defense or mitigation that was not offered by the officer in the investigative interview or otherwise during the IAPS or CPOA investigation. It bears repeating that APD should develop a clear policy that

encourages the offering of evidence in defense or mitigation during the IAPS or CPOA investigation. When evidence of defense or mitigation is offered for the first time at a PDH or appeal hearing, then IAPS or CPOA does not have an opportunity to corroborate or refute the new evidence and consider the evidence in making findings and recommendations. Moreover, the IAPS or CPOA representative present at a PDH should be familiar enough with the evidentiary record of the investigation to point out to the Disciplinary Authority if the subject in a PDH offers information that is contradicted by or is inconsistent with the evidentiary record.

#### **4.7.187 Assessing Compliance with Paragraph 201**

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 – 4.7.197 Paragraphs 202 and 205 – 208 are self-monitored by APD. Paragraph 203 is not monitored. Paragraphs 209 – 211 are terminated.**

#### **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. Newly established automated reminder notices came online during the IMR-20 reporting period.

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. The latest seventeen (17) supervisors were trained May 23-24, 2024.

APD documented that during the monitoring period for IMR-20, 47 total assessments were generated. There were 38 data-driven assessments, resulting in two Actionable Assessments and 36 Advisable Assessments. There were nine Command Initiated Assessments generated, of which seven identified a need for improvement, resulting in monitoring plans. Five assessments resulted in a monitoring plan for improvement. Two were addressed with counseling for the officers. Two additional assessments were still under review by the chain of command.

During the June 2024 site visit, the monitoring team spent time with 12 supervisors from 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 12 interviewed) had received an alert, but two were only received the day or days before. The other two resulted in monitoring plans.

While approved policy guidance exists, current policies will probably need to change as APD integrates new systems or updates risk factors. Evidence that APD understands this is that an additional level of review was added to the advisable alerts, which had previously only been reviewed by the sergeant and lieutenant. The process now proceeds through the Commander as it did with actionable alerts. Monthly PEMS Review Board actions highlight corrective actions when necessary. An option to use counseling alone to address an identified need for improvement was removed.

Additionally, APD should 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 thresholds with APD, as finding supervisors who have received and acted on data-driven alerts continues to be difficult.

#### **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 commenced on September 14, 2023, and concluded on October 6, 2023, during the monitoring period for IMR-19.

During the June 2024 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.

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, and plan to permanently warehouse long-term data (paragraph 217).

The monitoring team will continue to interview supervisors who have received alerts from PEMS/Benchmark.

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 with Paragraph 214

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### 4.7.201 Assessing Compliance with 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 Paragraphs 220 – 270 have been terminated.**

#### **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 June 2024 site visit, members of the monitoring team held meetings with the CPOA Executive Director and her staff. A stratified sample of 20 CPOA investigations was selected and reviewed, along with disciplinary appeals. The CPOA investigations reviewed were [IMR-20-94], [IMR-20-95], [IMR-20-96], [IMR-20-97], [IMR-20-98], [IMR-20-99], [IMR-20-100], [IMR-20-101], [IMR-20-102], [IMR-20-103], [IMR-20-104], [IMR-20-105], [IMR-20-106], [IMR-20-107], [IMR-20-108], [IMR-20-109], [IMR-20-110], [IMR-20-111], [IMR-20-112], and [IMR-20-113]. There were no non-concurrence decisions by the APD from these cases.

The findings related to Paragraphs 271, 277, 279, and 281 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, presently 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. We were encouraged to note that all approved positions were filled at the time of our most recent site visit. Unfortunately, numerous personnel changes have occurred, the workload has continued to increase and the CPOA Board was previously disbanded. The City committed to re-instituting a new five-member "advisory" board to replace the old board, which was completed. The new board was instituted and is currently operational, holding monthly meetings. This commitment is expected to be beneficial to the mission of CPOA as the new board becomes more established.

The new board members were required to receive specific training to provide them with the resources to serve effectively, which was completed during this period. The board met for the first time in February of this year and began hearing appeals during their May meeting. As of the date of this report, the board is staffed with four members, as one resigned in July.

During the prior period, the City Council hired a Contract Compliance Officer, who by ordinance, was responsible for selecting a permanent Executive Director, who in turn was responsible to hire a Deputy Director. During this period, the Interim Executive Director was installed as the official Executive Director. Also during this period, a Deputy Director was hired to begin assisting with the supervision of the CPOA. In prior reports, the monitoring team has recommended that a comprehensive staffing study be conducted to establish a reasonable amount of staffing to fulfill the responsibilities of the CPOA. Unfortunately, that has not occurred, but the City Council has approved additional hires. Over the past two IMR periods, three CPOA investigators resigned and four have been added to the roles, resulting in a total of seven investigators. In addition, during the last IMR period, two analysts were hired to further aid the CPOA. The Executive Director has also advised that the City Council has authorized the potential hiring of additional investigators. Once those positions are filled, and the new investigators are trained, and gain experience, the CPOA should be better equipped to meet their obligations. Filling those 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 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 continues to have the authority to recommend findings and disciplinary action in cases involving civilian complaint investigations. The Superintendent, or a designated disciplinary authority, retains the discretion to impose discipline but is tasked with writing a non-concurrence letter to the Director, then the Director informs the Board when there is disagreement with the CPOA recommendations. During this monitoring period, there were four non-concurrence letters, each deemed to be adequate. This topic is addressed above in the narrative for Paragraphs 201 and 202.

As we noted in the past, 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 we reviewed were complete, thorough, and well documented.

First, our review revealed that the sample of 20 CPOA cases included four investigations that were administratively closed [IMR-20-95], [IMR-20-102], [IMR-20-

109] and [IMR-20-113]. We find those administratively closed cases to be appropriately processed.

The monitor has approved of the use of administrative closure in situations in which a preliminary investigation cannot minimally sustain the allegations contained in a complaint. In a subsequent modification of that approval, the monitor allowed the use of an "unfounded" finding in lieu of "administrative closure" in cases in which a preliminary investigation shows, by clear and convincing evidence, the conduct that is the subject of the complaint did not occur.

In summary, our analysis reveals all CPOA investigations are generally of appropriate quality. This represents a CPOA compliance rate of 100 percent, consistent with the findings of IMR-19. Therefore, based upon the review of the codified random sampling of the cases reviewed, the CPOA has maintained operational compliance in paragraph 190.

As discussed in prior reports and again in this report, the CPOA caseload is excessive, given the workload, and it does not appear reasonable that even the current seven investigators can thoroughly and timely investigate the number of complaints received in a year. We continue to recommend a staffing study be conducted to establish a minimum staffing standard.

### **Timeliness of Investigations**

As the monitoring team has noted since IMR 8, during the review of random samples of investigations, we look for and determine the following dates of actions: complaint received, complaint assigned for investigation, initiation of investigation after assignment, notification letters to the subject officer(s), completion of investigation, and chain of command review and notification of intent to impose discipline (where applicable). During past site visits, the monitoring team has discussed with the CPOA the issue of delays between the date a complaint is received and the date it is assigned for investigation. Although the CASA does not deal directly with the issue of time to assign, the parties and the monitor agreed that a delay of more than seven working days for assignment is unreasonable and would affect the "expeditious" requirement of Paragraph 281. During this monitoring period, the assignment of cases has been found within guidelines.

During this reporting period, the monitoring team found two investigations of the stratified random sampling of twenty completed cases, [IMR-20-94] and [IMR-20-95], that exceeded the 120-day limit or the supervisory review period. In [IMR-20-94], the investigation was completed 279 days after assigned or notification letter sent and reviewed 179 days later. In [IMR-20-95], the investigation was completed 276 days and reviewed 30 days later. Also during this reporting period, in one case, [IMR-20-110], we noted that the notification letter to the subject officer was not sent by the investigator within the 15-day time limit, as per the CBA. In this particular case, the investigation was assigned to an investigator who subsequently resigned. That investigator failed to send the letter. The case was reassigned to another investigator seven weeks later,

and a letter was sent out 14 days later. In that case, the original complaint was exonerated against two officers for not responding to a call for service. The evidence proved that they did respond but could not locate the complainant after numerous attempts. In that case, a collateral issue was identified that one of the officers failed to record the entire call for service on their body camera. That violation was a first offense of a level 6 violation, in which the presumptive discipline would have been a written reprimand. Due to the fact that the notification letter was not sent in the required time period, the case was time-barred for discipline. This constitutes an 85% compliance rate for the random sampling of cases, an increase in compliance rate from the last report.

We also noted that due to the excessive workload and limited staffing, the Executive Director continues to triage investigations that she believes initially show some merit, thus minimizing the chance of having an investigation time-barred from administering discipline.

The monitor conducted a review of the electronic intake records. We note that numerous investigations from the end of this monitoring period are still pending. According to the records provided, 84 cases are pending, which have exceeded the 120-day time limit. This is a slight decrease from the last reporting period. There are also 84 cases in the supervisory review process. In addition, there is a current caseload of an additional 65 investigations, still within the time limit. As previously stated, the staffing of the CPOA is currently at two supervisors, the Executive Director and a newly hired Deputy Director, two analysts, and seven investigators. During this period, the staff completed 142 investigations. Consistent with the last monitoring period, the CPOA was unable to complete all the complaints received, which continues to put a great deal of stress on the investigators and, more importantly, reduces the responsiveness to address citizen's complaints.

The backlog of "time-barred" investigations was slightly reduced, which is encouraging. A backlog of investigations that have not or could not be investigated within the time requirements remains a significant concern, as the CPOA staff continues to receive more cases than it can investigate. The backlog creates a situation in which APD will not be able to discipline any time-barred cases with sustained findings, further deteriorating the public's confidence in their ability to address their complaints. In the last two monitor reports we recommended that steps be taken to fill the vacant positions within the Agency. We also recommended that a comprehensive staffing study be conducted to determine how much staffing is actually needed to fulfill the responsibilities of the CPOA.

We note that the City has re-instituted an Advisory Review Board. The City also has hired a Contract Compliance Officer, who in turn filled the Executive Director position, and the Executive Director hired a Deputy Director near the end of this monitoring period. Supervision remains paramount in the proper management of any government agency and is especially crucial in the process of complying with the CASA. Proper supervision will be paramount to ensuring the CPOA is operating optimally. The review of the CPOA Agency's timeliness of completing citizen complaint investigations



demonstrates a significant deficiency in the operational compliance with paragraph 281. We note that the City contracted with the same outside investigative agency that assisted in Internal Affairs Force investigations, to assist with the CPOA backlog. According to the records obtained, 58 cases that were all deemed to be over 120 days old and previously assigned to the investigators who resigned earlier this year, were assigned to the EFIT/DLG agency. This action was expected to assist in reducing the backlog of cases. All of the cases were not completed within the budgeted timeframe, and after an internal evaluation, the contract was not continued.

The Executive Director also advised that they are negotiating with another outside investigative agency to assist in eliminating the backlog of cases, while the new investigators gain training and efficiency.

Several monitor's prior reports have discussed the issue of the City providing sufficient resources and support to enable the CPOA to meet its mandates. Recommendations included that the City enter into a MOU with the APOA and the CPOA to provide all necessary materials to the CPOA to enable them to make appropriate recommendations.

According to the Executive Director of the CPOA, a draft MOU has been established but has not been agreed upon as of the end of this monitoring period. The Executive Director has indicated that the CPOA agency and Board do receive the necessary materials to make appropriate recommendations. As previously stated, the old CPOA Board was disbanded, and a new advisory board has been re-constituted. The previous board had expressed concerns about not getting the requisite materials in a timely manner, but the new Board has not noted any issues as of the end of this monitoring period.

Because of the requirements of the CBA, the City still needs to redact all videos and materials to prohibit the Board from being aware of which officers were involved. That process is laborious to the APD and inefficient to the process, since the full, un-redacted video recordings are available to the public via the Open Public Records Act. The City Legal Department, the APOA legal representative, and the CPOA legal advisor have yet to come to a formal agreement on this issue. Despite these issues, the CPOA has received sufficient materials to meet their responsibilities, as per the Executive Director, thus moving Paragraph 277, into Operational Compliance. The monitor continues to recommend that the parties enter into an MOU to ensure continued compliance.

#### **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

The City remains in compliance with the requirements of this paragraph.

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

### **4.7.257 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 Board operations and selection process, the prior Board was abolished and modifications were made to the selection criteria for Board members, supervision, and the selection of a director to better align with CASA requirements and improve operations. The ordinance change also restricts employment of Board members by former APD employees for up to three years prior to Board membership appointment. Further, the change requires new Board members to successfully pass a background check and requires a residency within the City of Albuquerque. During this reporting period, there were changes in the number of Board members for the CPOA. There were five Board members appointed and executing their roles and responsibilities during a portion of this reporting period. One of the five appointed members resigned, resulting in four of the five Board members serving at the end of this reporting period.

The monitoring team urges the City Council to move forward expeditiously to fill the current and any future vacancies, given the limited number of Board 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**

For this reporting period, the City Council-appointed Contract Compliance Officer confirmed that all present Board members completed the required 24 hours of training addressing the stipulated CASA requirements.

The monitoring team appreciates the work done in the past year by the CPOA director in consultation with APD to revise training to better align with the duties and responsibilities of CPOA Board members and to incorporate changes resulting from the new ordinance. The City should ensure that CPOA staff, in consultation with the Contract Compliance Officer, develop a written timeline to fully implement training and update tracking and reporting mechanisms related to Board training for future Board members.

#### **Results**

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

#### **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:**

For this reporting period, the Council-appointed Contract Compliance Officer confirmed that all current Board members completed the required 8-hour training covering the requirements of this paragraph. In the prior reporting period, The City completed an update of this curriculum, including the incorporation of the feedback provided by the monitoring team. This training should be delivered in a timely manner to future Board members. The monitoring team was advised that the training will include quarterly briefings by the APD Academy Commander on changes in law, policy training, and procedures. Legal updates should also be provided through the Document Management System (Power DMS).

### **Results**

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

#### **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:**

For this reporting period, the City Council-appointed Contract Compliance Officer reports that current CPOA Board members have met the ride-along requirements for this paragraph. The monitor expects that the CPOA Director and the Contract Compliance Officer will ensure development of adequate tracking and reporting mechanisms to ensure compliance with this paragraph in future reporting periods.

### **Results**

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

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

Paragraph 277 stipulates:

**“The City shall provide the agency sufficient resources and support to assess and make recommendations regarding APD’s civilian complaints, serious uses of force, and officer-involved shootings; and to review and make recommendations about changes to APD policy and long-term trends in APD’s use of force. 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: **In Compliance**

**4.7.263 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**

***Recommendations for Paragraph 279***

***4.7.264a: The City and CPOA should attempt to identify and hire qualified investigators to fill all vacant positions to increase the effectiveness of the agency.***

**4.7.265 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 staff the CPOA agency adequately. Special attention must be paid to completing all the delinquent investigations currently assigned, along with all the new complaints.***

***4.7.266b: Immediate action should be taken to fill the vacant investigator positions to enhance the Agency's overall efficiency.***

***4.7.266c: Efforts should be made to eliminate the backlog of cases that have exceeded the 120-time limit for investigations to be completed as soon as possible.***

**4.7.267 – 4.7.276 Paragraphs 282 – 291 are self-monitored by the City.**

**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

CPOA completed and submitted semi-annual reports during this reporting period for January--June 2023 and July--December 2023. The monitoring team found these reports to be complete and thorough, meeting all the reporting requirements.

## Results

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

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

Paragraph 320 stipulates:

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

## Results

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

## **5.0 Summary**

During this reporting period, APD continued to meet CASA requirements. That work has moved the CASA compliance levels to rates higher than all previous reports. As noted, Primary Compliance stands at 100 percent. Secondary Compliance also is at 100 percent. Operational compliance stands at 99 percent. These compliance levels are the result of focused executive-level commitment to compliance and demonstrative of the hard work by the City of Albuquerque.