



## **SUMMARY AND ANALYSIS OF THE MONITOR'S NINTH REPORT**

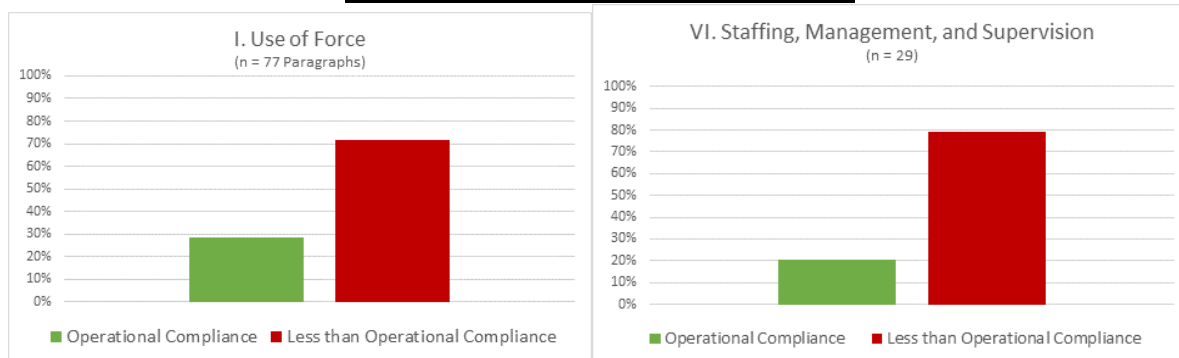
### **Slow and Steady Progress**

On May 2, 2019 the Independent Monitor released the 9<sup>th</sup> report (IMR9) since reform efforts began in 2015. Since the previous report in November, the Albuquerque Police Department has boosted operational compliance by four percent to 63%. In order to fully comply with the CASA, APD must achieve 95% operational compliance and maintain that level for two years. At this rate APD will achieve operational compliance in four years and then be required to maintain that level for two additional years, or six years from now (2025). In IMR9, the Monitor describes how systems are finally in place that will allow APD to continue to build on its progress to this point, but the Monitor also documents several problems that threaten to block APD from reaching full operational compliance.

### **Precarious Moments for Reform**

In IMR9, the Monitor describes two distinct but related issues that present critical threats to the reform efforts. First, the Monitor describes a persistent pattern of supervisors failing to identify, assess, and act on policy or rule violations by sworn officers. Second, the Monitor continues to see what he previously identified as a “Counter-CASA Effect” in which officers, including supervisors, intentionally subvert reform in ways that are often oblique and sometimes constitute outright insubordination.

### **Lack of Accountability for Use of Force**



While APD and the City should be lauded for continued progress towards compliance, perhaps the most critical area for reform continues to be the biggest challenge: achieving operational compliance with the sections of the CASA dealing with Use of Force and Supervision. The charts above demonstrate just how far APD still needs to go to succeed in this critical area, the heart of the reform process.

In fact, the Monitor’s findings in this regard recall some of the original alarm that informed the Department of Justice’s findings letter when it concluded in 2014 that APD exhibited a pattern or practice of excessive use of force. “Chief among [the department’s] deficiencies,” the letter read, “is the department’s failure to implement an objective and rigorous internal accountability



system. Force incidents are not properly investigated, documented, or addressed with corrective measures." (DOJ Findings Letter, April 2014. Emphasis added). Five years later, the Monitor has this to say about use of force accountability: "...most of the deficiencies we have noted relate directly to use-of-force issues, e.g., supervisory and command personnel missing critical failing elements of officers' and supervisors' use-of-force reporting and/or practice. At this point, this is *the* critical area of shortfall for APD's compliance efforts." (IMR9 at p.215).

### **Counter-CASA Effect**

A second troubling factor is what the Monitor describes as the "Counter-CASA" effect. Previous reports spoke in terms of an inability of supervisors to properly identify uses of force, but now the Monitor describes a situation in which after years of training on how to identify out-of-policy use of force, the real issue is not one of training but rather "a lack of will in the supervisory and field management cadres at APD" (IMR9 at p.72). Here are several examples of the Counter-CASA effect at play:

- A trend of officers muting their OBRD audio at scenes of uses of force (p.30).
- Supervisors inappropriately reaching out to argue against Backlog Team findings (p.32).
- Failures at every level of a use of force review labeled as "deliberate indifference" (p.60).
- Additional concern memos (ACMs) being used to "hide" important policy violations (p. 62).
- Unconstitutional detainment of people "without any basis for a criminal charge" (p.62).
- OBRD policy being changed "at the street and command levels" (p.63).
- Creating a "hole" for criminal conduct referrals to fall into (p.80).
- A sergeant who blatantly refuses to follow the CASA because he doesn't agree with the reforms and receives only a verbal reprimand in response (p.215).

The Monitor concludes that while some shortfalls are related to systems and reporting, a "large percentage of these failures are willful, with a small, but central cadre of supervisors simply not receptive to the requirements of the CASA" (IMR9 at p.215).

### **Conclusion**

True culture change is difficult and takes time. The Monitor praises APD executive staff for fully committing to reforms and suggests that leadership has begun to embrace the fact that some processes simply cannot be rushed. However he also identifies persistent failures and even a growing culture of resistance that threaten to prevent APD from ever achieving full compliance and ending oversight by the Department of Justice. The sections of the CASA dealing with Use of Force and Supervision are arguably the most critical part of the reform process and require continued oversight and monitoring. The residents of Albuquerque deserve nothing less.