



Summary of the Independent Monitor's Twelfth Report

Covering the period of February 1, 2020 to July 31, 2020, the Independent Monitor's twelfth report (IMR-12) is perhaps the most damning assessment of the Albuquerque Police Department's compliance with the Court Approved Settlement Agreement (CASA) to date. It comes on the heels of the former police chief's firing and a string of ten officer-involved shootings since the beginning of 2020. A thorough reading of the report leaves the impression that APD leadership has given up on key parts of the reform and that the toxic culture and systemic failures described in Department of Justice Findings Letter persist! "Counter-CASA" elements appear to have entrenched themselves at all levels in the department.

The combination of systemic failures and "counter-CASA" activity has caused APD to backslide in the reform effort. While Primary Compliance remains at 100 percent, Secondary Compliance slipped from 93 to 91 percent and Operational Compliance from 66 to 64 percent.¹

The following areas continue to win the Monitor's praise:

- Compliance and Oversight Division, a newly-created department devoted entirely to measuring and ensuring APD's compliance with reform;
- Special Operations Division;
- Behavior health practices; and
- APD recruiting practices.

However, the Monitor identifies "serious shortfalls" in the following key areas:

Management and oversight of the Training Academy. This year the Academy devoted particular attention to launching its first Tier 4 training (reality-based scenarios), to the neglect of Tiers 1 through 3. The Monitor finds that the Academy has no plan for ensuring consistent updates of the first three tiers, even though those trainings should be maintained annually.

Oversight, Supervision and Discipline. The Monitor identifies systemic failures at every level of officer accountability, from supervisors to the Internal Affairs Force Division to the Force Review Board to executive leadership. Repeatedly, the Monitor blasts the Department's inability, or unwillingness, to notice even major policy violations and take corrective action. In

¹ Primary Compliance means that the department has put in place policies to address the issues covered by the CASA. Secondary Compliance measures the degree to which trainings implement those policies. Operational Compliance is attained when the department demonstrates routine adherence to the policies and can properly identify issues and take the appropriate corrective action.

one case, APD failed to hold officers accountable for intentionally slamming a car door on the head and shoulders of an arrested suspect who was in mental health crisis to force him back into a squad car. Neither Internal Affairs nor the Force Review Board identified the actions as uses of force, even though they reviewed all videos of the incident.

In another case, an arrestee was left to hang himself with his shackles in a holding cell because the arresting officer failed to make two required visual checks on the prisoner's status. Upon finding the prisoner lifeless on the ground, the officer made no attempt to check his pulse or contact medical personnel.² For all his indifference to human life, the officer's only significant punishment was forfeiting "a handful of 10-hour shifts" (IMR-12, p. 100).

Because of incidents such as these, the Monitor concludes that "the current APD simply has no appetite for discipline, either reformatory (counseling, coaching, retraining, enhanced supervision, transfer, etc.) or actual discipline such as suspensions or terminations. Until this aversion to discipline is addressed seriously at APD, the remaining CASA paragraphs remaining out of compliance will show little progress" (p. 75).

But APD's aversion to discipline has an even more nefarious side. At several points throughout the report, the Monitor slams APD leadership for failing to address growing signs of counter-CASA activity—intentional and deliberate sabotage of reforms. In one case, an officer refused to properly fill out a routine police report after discharging his Electronic Control Weapon. Where the report template asked him to "state if you were involved in the use of force or a witness to the use of force," the officer wrote:

". . . I hereby reserve my right to remain silent under the United States Constitution and any other rights as prescribed by law. I specifically rely upon the protection afforded to me under the doctrine set forth in *Garrity v. New Jersey*, 385 U.S. 493 (1967)" (p. 27).

The officer was never questioned about the response nor required to properly fill out the report. The monitor states, "Now, officers seem to believe they can issue themselves immunity from prosecution while writing a report and APD command staff are complicit in this belief . . . We note this as a relatively aggressive extension of counter-CASA processes noted of late at APD." The Monitor attributes such "self-immunizing" behavior, as well as similar "hijacking" of fact-finding processes in Internal Affairs investigations, to union interference (p. 27).

From supervision at the field level to mid-level command in both operational and administrative functions, counter-CASA resistance is standing squarely in the way of APD's further progress in reform. The Monitor concludes that the problem is "near-terminal" for departmental command and leadership at the highest levels (p. 354). It seems clear that without an overhaul of APD leadership and quite possibly the imposition of outside management and oversight APD may never fully comply with the CASA.

² This officer was the subject of a previous Special Report by the Monitor for wantonly kneeling a subject in the head who was being held down by other officers.