

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.81 Compliance with Paragraph 94: Tactical Units Policy and Procedure

Paragraph 94 stipulates that:

APD policies and procedures on specialized tactical units shall include the following topics:

- a) Team organization and function, including command relationships with the incident commander, Field Services Bureau, other specialized investigative units, Crisis Negotiation Team, Crisis Intervention Unit, crisis intervention certified responders, and any other joint or support elements to ensure clear lines of responsibility;
- b) Coordinating and implementing tactical operations in emergency life-threatening situations, including situations where an officer's view may be obstructed;
- c) Personnel selection and retention criteria and mandated physical and tactical competency of team members, team leaders, and unit commanders;
- d) Training requirements with minimum time periods to develop and maintain critical skills to include new member initial training, monthly training, special assignment training, and annual training;
- e) Equipment appropriation, maintenance, care, and inventory;
- f) Activation and deployment protocols, including when to notify and request additional services;
- g) Conducting threat assessments to determine the appropriate responses and necessary resources;
- h) Command and control issues, including a clearly defined command structure; and
- i) Documented after-action reviews and reports.

Methodology

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

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

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

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

Results

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

4.7.82 Compliance with Paragraph 95: Annual Review of Tactical Policy

Paragraph 95 stipulates that:

The policies and standard operating procedures of specialized tactical units shall be reviewed at least annually and revisions shall be based, at a minimum, on legal developments, training updates, operational evaluations examining actual practice from after-action reviews, and reviews by the Force Review Board or other advisory or oversight entities established by this Agreement.

Methodology

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

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

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

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

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.83 Compliance with Paragraph 96: Documentation of Tactical Activities

Paragraph 96 stipulates that:

In addition to Use of Force Reports, APD shall require specialized tactical units to document their activities in detail, including written operational plans and after-action reports created after call-outs and deployments to critical situations. After-action reports shall address any areas of concern related to policy, training, equipment, or tactics.

Methodology

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

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

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

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

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

Results

SWAT operations in general were exemplary, exhibiting the level of commitment to training, supervision and self-critique the organization imposes upon itself in this area. The team's only findings of non-compliance are related to failure to provide for review the necessary after-action critiques, as called for by this paragraph.

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

4.7.84 Compliance with Paragraph 97: Tactical Mission Briefings

Paragraph 97 stipulates that:

APD shall require specialized tactical units to conduct mission briefings before an operation, unless exigent circumstances require an immediate deployment. APD shall also ensure that specialized tactical team members designate personnel to develop and implement operational and tactical plans before and during tactical operations. All specialized tactical team members should have an understanding of operational planning.

Methodology

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

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

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

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

Results

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

4.7.85 Compliance with Paragraph 98: Tactical Uniform Requirements

Paragraph 98 stipulates that:

All specialized tactical units shall wear uniforms that clearly identify them as law enforcement officers.

Methodology

During our interview with the Special Operations Division (SOD) Commander, the monitoring team was shown a set of photographs of various uniforms authorized for use by unit members. The uniforms depicted in the photographs that we viewed are far more suitable for civilian police operations and differ significantly from standard military uniforms. They identify unit members as police officers through distinctive markings and images.

The monitoring team also reviewed Metro Division Order 4-04 SWAT (June 2, 2009), which specifies four basic uniforms that officers may wear depending upon "mission requirements". None are similar in appearance to the standard military camouflage uniform, and all appear suitable and functional for civilian policing. The authorized uniforms, except for the civilian dress mode, identify unit members as police officers through distinctive markings and images.

The monitoring team was provided SOP 2-6 Uniform, wherein section 2-06-12 was highlighted for our consideration. That section entitled "Tactical/BDU Style Uniform" specifies the uniform required by ERT members.

Two (2) pages from the 2014 APD Annual Report were provided that depict a number of pictures of people in various uniforms and clothing. It is unclear what the purpose is of this exhibit, since this is not a sufficient normal course of

business document due to the lack of context for the photographs. The monitoring team will arrange field observations of SWAT and SOD personnel in upcoming site visits, as well as reviewing OBRD videos of SOD personnel engaged in their daily course of business process.

Results

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

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

Paragraph 99 stipulates that:

All specialized tactical unit deployments shall be reviewed by the Force Review Board in order to analyze and critique specialized response protocols and identify any policy, training, equipment, or tactical concerns raised by the action. The Force Review Board shall identify areas of concern or particular successes and implement the appropriate response, including modifications to policy, training, equipment, or tactics.

Methodology

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

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

Results

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

Operational: **Not Yet Due**

4.7.87 Compliance with Paragraph 100: Eligibility Requirements for Tactical Teams

Paragraph 100 stipulates that:

APD shall establish eligibility criteria for all team members, team leaders, and supervisors assigned to tactical units and conduct at least annual reviews of unit team members to ensure that they meet delineated criteria.

Methodology

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

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

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.88 Compliance with Paragraph 101: Tactical Team Training

Paragraph 101 stipulates that:

APD shall train specialized tactical units conducting barricaded gunman operations on competencies and procedures that include: threat assessment to determine the appropriate response and resources necessary, mission analysis, determination of criminal offense, determination of mental illness, requirements for search warrant prior to entry, communication procedures, and integration of the Crisis Negotiation Team, the Crisis Intervention Unit, and crisis intervention certified responders.

Methodology:

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

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

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

Results

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

4.7.89 Compliance with Paragraph 102: Canine Post Deployment Reviews

Paragraph 102 stipulates that:

APD shall continue to require the Canine Unit to complete thorough post- deployment reviews of all canine deployments.

Methodology:

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

Results

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

4.7.90 Compliance with Paragraph 103: Tracking Canine Deployments

Paragraph 103 stipulates that:

APD shall continue to track canine deployments and canine apprehensions, and to calculate and track canine bite ratios on a monthly basis to assess its Canine Unit and individual Canine teams.

Methodology

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

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

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

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

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

Results

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

4.7.91 Compliance with Paragraph 104: Tracking Canine Bite Ratios

Paragraph 104 stipulates that:

APD shall include canine bite ratios as an element of the Early Intervention System and shall provide for the review, pursuant to the protocol for that system, of the performance of any handler whose bite ratio exceeds 20 percent during a six-month period, or the entire unit if the unit's bite ratio exceeds that threshold, and require interventions as appropriate. Canine data and analysis shall be included in APD Use of Force Annual Report.

Methodology:

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

Results

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

4.7.92 Compliance with Paragraph 105: Analyzing Tactical Deployments

Paragraph 105 stipulates that:

APD agrees to track and analyze the number of specialized tactical unit deployments. The analysis shall include the reason for each tactical deployment and the result of each deployment, to include: (a) the location; (b) the number of arrests; (c) whether a forcible entry was required; (d) whether a weapon was discharged by a specialized tactical unit member; (e) whether a person or domestic animal was injured or killed; and (f) the type of tactical equipment deployed. This data analysis shall be entered into the Early Intervention System and included in APD's annual reports.

Methodology

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

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

Results

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

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

Paragraph 106 stipulates that:

Each specialized investigative unit shall have a clearly defined mission and duties. Each specialized investigative unit shall develop and implement policies and standard operating procedures that incorporate APD's agency-wide policies on use of force, force reporting, and force investigations.

Methodology

The monitoring team reviewed Administrative Procedure 3-01 Special Investigations Division (January 20, 2015) and found that it appears to fulfill the requirements in Paragraph 106. This procedure has not yet been reviewed by DOJ. The order defines the mission and duties of each unit within the Division and incorporates by reference APD policies on the use of force. The order also mentions that all detectives assigned to the Division shall be issued an individual Unit Handbook that sets forth unit operational procedures, but the monitoring team did not have an opportunity to review the handbooks. Because these handbooks appear to be an especially sound approach to providing unit members detailed guidance on unit operations, the monitoring team will arrange to review them during its upcoming visit. The monitoring team found no indication that unit members were actively **trained** in the contents of the handbooks

Results

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

4.7.94 Compliance with Paragraph 107: Protocols for High-Risk Situations

Paragraph 107 stipulates that:

APD shall prohibit specialized investigative units from providing tactical responses to critical situations where a specialized tactical unit is required. APD shall establish protocols that require communication and coordination by specialized investigative units when encountering a situation that requires a specialized tactical response. The protocols shall include communicating high-risk situations and threats promptly, coordinating effectively with specialized tactical units, and providing support that increases the likelihood of safely resolving a critical incident.

Methodology

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

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

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

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.95 Compliance with Paragraph 108: Inspection of Specialized Units

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

4.7.96 Compliance with Paragraph 109: Tracking Specialized Unit Responses

Paragraph 109 stipulates that:

APD agrees to track and analyze the number of specialized investigative unit responses. The analysis shall include the reason for each investigative response, the legal authority, type of warrant (if applicable), and the result of each investigative response, to include: (a) the location; (b) the number of arrests; (c) the type of evidence or property seized; (d) whether a forcible entry was required; (e) whether a weapon was discharged by a specialized investigative unit member; (f) whether the person attempted to flee from officers; and (g) whether a person or domestic animal was injured or killed. This data analysis shall be entered into the Early Intervention System and included in APD's annual reports.

Methodology

Administrative Procedure 3-01 Special Investigations Division (January 20, 2015) meets all the requirements set forth in Paragraph 109. The monitoring team will assess how this data is tracked and entered into APD's Early Intervention System during our meeting with the Division Commander in November.

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.97 Compliance with Paragraph 110: Minimize Use of Force with Those in Crisis

Paragraph 110 stipulates that:

To maintain high-level, quality service; to ensure officer safety and accountability; and to promote constitutional, effective policing, APD agrees to minimize the necessity for the use of force against individuals in crisis due to mental illness or a diagnosed behavioral disorder and, where appropriate, assist in facilitating access to community-based treatment, supports, and services to improve outcomes for the individuals. APD agrees to develop, implement and support more integrated, specialized responses to individuals in mental health crisis through collaborative partnerships with community stakeholders, specialized training, and improved communication and coordination with mental health professionals. To achieve these outcomes, APD agrees to implement the requirements below."

Methodology

Members of the monitoring team requested all policies submitted by APD regarding performance of task 110 that were completed during the first reporting period dates of February-May, 2015. None of the requisite policy documents were completed during the first reporting period. The monitoring team will continue to work with the APD to get workable, meaningful and effective policies developed for this task, and to generate meaningful training responsive to those policies.

Results

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

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

Paragraph 111 stipulates that:

Within six months of the Operational Date, APD and the City shall establish a Mental Health Response Advisory Committee (Advisory Committee) with subject matter expertise and experience that will assist in identifying and developing solutions and interventions that are designed to lead to improved outcomes for individuals perceived to be or actually suffering from mental illness or experiencing a mental health crisis. The Advisory Committee shall analyze and recommend appropriate changes to policies, procedures, and training methods regarding police contact with individuals with mental illness

Methodology

This provision is not yet due. Effective September 24, 2015, Federal District Court Judge Brack extended, at the Parties request, with the monitor's support, the deadline for this project to December 2, 2015. The monitoring team will evaluate this paragraph again for IMR-3.

Result

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

4.7.99 Compliance with Paragraph 112: Representation on MHRAC

Paragraph 112 stipulates that:

The Advisory Committee shall include representation from APD command staff, crisis intervention certified responders, Crisis Intervention Unit (CIU), Crisis Outreach and Support Team (COAST), and City-contracted mental health professionals. APD shall also seek representation from the Department of Family and Community Services, the University of New Mexico Psychiatric Department, community mental health professionals, advocacy groups for consumers of mental health services (such as the National Alliance on Mental Illness and Disability Rights New Mexico), mental health service providers, homeless service providers, interested community members designated by the Forensic Intervention Consortium, and other similar groups.

Methodology

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

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

Result

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

4.7.100 Compliance with Paragraph 113: MHRAC Provides Guidance to City

Paragraph 113 requires:

The Advisory Committee shall provide guidance to assist the City in developing and expanding the number of crisis intervention certified responders, CIU, and COAST. The Advisory Committee shall also be responsible for considering new and current response strategies for dealing with chronically homeless individuals or individuals perceived to be or actually suffering from a mental illness, identifying training needs, and providing guidance on effective responses to a behavioral crisis event

Methodology

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

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

Result

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

4.7.101 Compliance with Paragraph 114 requires: MHRAC Protocols

APD, with guidance from the Advisory Committee, shall develop protocols that govern the release and exchange of information about individuals with known mental illness to facilitate necessary and appropriate communication while protecting their confidentiality

Methodology

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

Results

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

4.7.102 Compliance with Paragraph 115: APD Provided Data to MHRAC

Paragraph 115 requires:

Within nine months of the Operational Dates, APD shall provide the Advisory Committee with data collected by crisis intervention certified responders, CIU, and COAST pursuant to Paragraphs 129 and 137 of this Agreement for the sole purpose of facilitating program guidance. Also, within nine months of the Operational Date, the Advisory Committee shall review the behavioral health training curriculum; identify mental health resources that may be available to APD; network and build more relationships; and provide guidance on scenario-based training involving typical situations that occur when mental illness is a factor

Methodology

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

Results

The performance deliverables of this paragraph are not due until March 2, 2016.

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

4.7.103 Compliance with Paragraph 116: MHRAC Coordinates with Local Systems

Paragraph 116 requires:

The Advisory Committee shall seek to enhance coordination with local behavioral health systems, with the goal of connecting chronically homeless individuals and individuals experiencing mental health crisis with available services.

Methodology

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

Results

The performance deliverables of this paragraph are not yet due.

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

4.7.104 Compliance with Paragraph 117: MHRAC Public Reports

Paragraph 117 stipulates:

Within 12 months of the Operational Date, and annually thereafter, the Advisory Committee will provide a public report to APD that will be made available on APD's website, which shall include recommendations for improvement, training priorities, changes in policies and procedures, and identifying available mental health resources.

Methodology

Members of the monitoring team met with the MHRAC co-chair and members of the Crisis Intervention Unit to review progress. The team also reviewed CIU/COAST monthly reports for March and April, 2015. The monitoring team characterizes MHRAC progress as substantial. Criteria for this paragraph are not due until June, 2, 2016.

Results

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

4.7.105 Compliance with Paragraph 119⁵

Paragraph 119 stipulates:

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

APD agrees to continue providing state-mandated, basic behavioral health training to all cadets in the academy. APD also agrees to provide 40 hours of basic crisis intervention training for field officers to all academy graduates upon their completion of the field training program. APD is also providing 40 hours of basic crisis intervention training for field officers to all current officers, which APD agrees to complete by the end of 2015.

Methodology

During the first site visit (June 21-26, 2015), members of the monitoring team met with Crisis Intervention Unit personnel responsible for facilitating the development of training and addressing mental health issues to discuss progress. During a partial-team site visit (August 19-22, 2015), members of the monitoring team again met with members of the Crisis Intervention Unit to discuss progress, and conducted a review of CIU/COAST Monthly reports for March and April, 2015.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.106 Compliance with Paragraph 120: Crisis Intervention Training

Paragraph 120 stipulates:

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

Methodology

During the first site visit (June 21-26, 2015), members of the monitoring team met with Crisis Intervention Unit personnel responsible for facilitating the development of training addressing mental health issues to discuss progress. During the second site visit (August 19-22, 2015), members of the monitoring team again met with members of the APD Crisis Intervention Unit to discuss progress. The monitoring team also reviewed CIU/COAST Monthly reports March and April, 2015. The monitoring team is concerned about the quantity and quality of training provided by APD pursuant to this task. In the opinion of the monitoring team, the quantity and quality of scenario-based training is minimal, at best, and during this time-period, APD was "retooling" applicable policies, thus training "to policy" was not possible.

Results

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

4.7.107 Compliance with Paragraph 121: Training Tele-communicators

Paragraph 121 stipulates:

APD shall ensure that new tele-communicators receive 20 hours of behavioral health training. This training shall include: telephonic suicide intervention; crisis management and de-escalation; interactions with individuals with mental illness; descriptive information that should be gathered when tele-communicators suspect that a call involves someone with mental illness; the roles and functions of COAST, crisis intervention certified responders, and CIU; the types of calls that should be directed to particular officers or teams; and recording information in the dispatch database about calls in which mental illness may be a factor.

Methodology

During the first site visit (June 21-26, 2015), members of the monitoring team met with Crisis Intervention Unit personnel responsible for facilitating the development of training addressing mental health issues to discuss progress. During a partial-team site visit (August 19-22, 2015), members of the monitoring team again met with members of the APD Crisis Intervention Unit to discuss progress. The monitoring team also reviewed CIU/COAST Monthly reports March and April, 2015.

Results

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

4.7.108 Compliance with Paragraph 122: Bi-Annual Training in Behavioral Health Issues

Paragraph 122 stipulates:

APD shall provide two hours of in-service training to all existing officers and tele-communicators on behavioral health-related topics bi-annually.

Methodology

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

Results

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

4.7.109 Compliance with Paragraph 123: Crisis Intervention Certified Responders Staffing

Paragraph 123 stipulates:

APD shall maintain a sufficient number of crisis intervention certified responders who are specially trained officers across the Department who retain their normal duties and responsibilities and also respond to calls involving those in mental health crisis. APD shall also maintain a Crisis Intervention Unit ("CIU") composed of specially trained detectives housed at the Family Advocacy Center whose primary responsibilities are to respond to mental health crisis calls and maintain contact with mentally ill individuals who have posed a danger to themselves or others in the past or are likely to do so in the future. APD agrees to expand both the number of crisis intervention certified responders and CIU

Methodology

During the first site visit (June 21-26, 2015), members of the monitoring team met with Crisis Intervention Unit personnel responsible for training and staffing to discuss progress. During a partial-team site visit (August 19-22, 2015), members of the monitoring team again met with members of the APD Crisis Intervention Unit to discuss progress. Monitoring team members reviewed CIU/COAST Monthly reports March and April, 2015. Compliance with staffing factors cannot be assessed until the Weiss and Associates staffing study is complete.

Results

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

4.7.110 Compliance with Paragraph 124: Crisis Intervention Staffing Goals

Paragraph 124 stipulates:

The number of crisis intervention certified responders will be driven by the demand for crisis intervention services, with an initial goal of 40% of Field Services officers who volunteer to take on specialized crisis intervention duties in the field. Within one year of the Effective Date, APD shall reassess the number of crisis intervention certified responders, following the staffing assessment and resource study required by Paragraph 204 of this Agreement

Methodology

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

- Needs assessment statements and data;
- Course objectives;
- Learning objectives;
- Participant performance objectives;
- Identification of instructional modalities (including more than straight "lecture" from PowerPoint slides) such as small-group problem-solving exercises, presentation development and execution, review of video presentations of effective similar programs, etc.
- Descriptions of assessment modalities, such as exams, presentations, development of problem-solving rubrics for situations commonly faced by CIT-capable officers; and
- Content absorption testing processes.

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

Results

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

4.7.111 Compliance with Paragraph 125: Crisis Intervention Training

Paragraph 125 stipulates:

During basic crisis intervention training for field officers provided to new and current officers, training facilitators shall recommend officers with apparent or demonstrated skills and abilities in crisis de-escalation and interacting with individuals with mental illness to serve as crisis intervention certified responders.

Methodology

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

Results

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

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

Paragraph 126 stipulates:

Within 18 months of the Operational Date, APD shall require crisis intervention certified responders and CIU to undergo at least eight hours of in-service crisis intervention training biannually.

Methodology

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

Results

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

4.7.113 Compliance with Paragraph 127: Staffing of Crisis Intervention Responders

Paragraph 127 stipulates:

Within 18 months of the Effective Date, APD will ensure that there is sufficient coverage of crisis intervention certified responders to maximize the availability of specialized responses to incidents and calls for service involving individuals in mental health crisis; and warrant service, tactical deployments, and welfare checks involving individuals with known mental illness

Methodology

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

Results

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

4.7.114 Compliance with Paragraph 128: Responsibilities for Response to Individuals in Crisis

Paragraph 128 stipulates:

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

Methodology

Members of the monitoring team assessed APD's status regarding revision of Procedural Order 2-13 and found it to be "in-progress." This task will be re-assessed during the next reporting period.

Results

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

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

Paragraph 129 stipulates:

APD shall collect data on the use of crisis intervention certified responders and CIU. This data will be collected for management purposes only and shall not include personal identifying information of subjects or complainants. APD shall collect the following data:

- a) date, shift, and area command of the incident;
- b) subject's age, race/ethnicity, and gender;

- c) whether the subject was armed and the type of weapon;
- d) whether the subject claims to be a U.S. military veteran;
- e) name and badge number of crisis intervention certified responder or CIU detective on the scene;
- f) whether a supervisor responded to the scene;
- g) techniques or equipment used;
- h) any injuries to officers, subjects, or others;
- i) disposition of the encounter (e.g., arrest, citation, referral); and
- j) a brief narrative of the event (if not included in any other document)."

Methodology

Members of the monitoring team met with APD personnel working on compliance efforts for this paragraph to determine their status and ensure all items required were addressed. The system is still under development.

Results

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

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

Paragraph 130 stipulates:

APD will utilize incident information from actual encounters to develop case studies and teaching scenarios for roll-call, behavioral health, and crisis intervention training; to recognize and highlight successful individual officer performance; to develop new response strategies for repeat calls for service; to identify training needs for in-service behavioral health or crisis intervention training; to make behavioral health or crisis intervention training curriculum changes; and to identify systemic issues that impede APD's ability to provide an appropriate response to an incident involving an individual experiencing a mental health crisis

Methodology

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

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

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

Paragraph 131 stipulates:

Working in collaboration with the Advisory Committee, the City shall develop and implement a protocol that addresses situations involving barricaded, suicidal subjects who are not posing an imminent risk of harm to anyone except themselves. The protocol will have the goal of protecting the safety of officers and suicidal subjects while providing suicidal subjects with access to mental health services.

Methodology

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

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.118 Compliance with Paragraph 132: COAST and CIU Follow Up

Paragraph 132 stipulates:

APD shall continue to utilize COAST and CIU to follow up with chronically homeless individuals and individuals with a known mental illness who have a history of law enforcement encounters and to proactively work to connect these individuals with mental health service providers.

Methodology

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

Results

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

4.7.119 Compliance with Paragraph 133

Paragraph 133 stipulates:

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

Methodology

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

Results

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

4.7.120 Compliance with Paragraph 134: Referrals to COAST and CIU

Paragraph 134 stipulates:

APD shall continue to utilize protocols for when officers should make referrals to and coordinate with COAST and CIU to provide prevention services and disposition and treatment options

Methodology

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

Results

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

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

Paragraph 135 stipulates:

APD shall maintain a sufficient number of trained and qualified mental health professionals in COAST and full-time detectives in CIU to satisfy its obligations under this Agreement. Within three months of completing the staffing assessment and resource study required by Paragraph 204 of this Agreement, APD shall develop a recruitment, selection, and training plan to assign, within 24 months of the study, 12 full-time detectives to the CIU, or the target number of detectives identified by the study, whichever is less

Methodology

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

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

Results

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

4.7.122 Compliance with Paragraph 136: Improving COAST/CIU Outreach

Paragraph 136 stipulates:

COAST and CIU shall continue to look for opportunities to coordinate in developing initiatives to improve outreach, service delivery, crisis prevention, and referrals to community health resources.

Methodology

Members of the monitoring team consulted members of COAST and CIU to assess their practices and policies and found that a final policy for CIU/COAST was still under development, and that staffing levels had not been finalized.

Results

Two pieces of critical work remain to be done to achieve compliance with this task: completion of the staffing study (expected in late November) and finalization of controlling policy for CIU/COAST is required.

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

4.7.123 Compliance with Paragraph 137: Impact Analysis for Crisis Prevention

Paragraph 137 stipulates:

APD shall collect and analyze data to demonstrate the impact of and inform modifications to crisis prevention services. This data will be collected for management purposes only and shall not include personal identifying information of subjects or complainants. APD shall collect the following data:

- a) number of individuals in the COAST and CIU case loads;

- b) number of individuals receiving crisis prevention services;
- b) date, shift, and area command of incidents or follow up encounters;
- d) subject's age, race/ethnicity, and gender;
- e) whether the subject claims to be a U.S. military veteran;
- f) techniques or equipment used;
- g) any injuries to officers, subjects, or others;
- h) disposition of the encounter (e.g., arrest, citation, referral); and
- a brief narrative of the event (if not included in any other document)

Methodology

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

Results

Work has begun on new data collection instruments and processes, but at the time of this analysis, had not been completed. The protocols for the required analysis of data had not yet been implemented.

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

4.7.124 Compliance with Paragraphs 138-161 Training

APD's recruit and in-service training processes are the subject of paragraphs 138-161. The very first paragraphs informing APD's training practices focus, rightfully so, on the policy that underlies the training. Policy is the foundation of training. Any training developed and delivered absent a strong and resilient policy system is virtually guaranteed to fail to deliver a training product that maintains consistent performance reflective of organizational values and operational requirements.

Members of the monitoring team recognized from the very start that APD policies in effect at the time the monitoring team were in less than exemplary. Critical, "key piece" policies were difficult to understand, were often disjointed, clearly written piecemeal, without an over-arching understanding of the function of policy as a critical piece of the training continuum. For example, the monitors gave

failing marks to critical policy elements on their initial reviews, finding fatal flaws in the APD's use of force, internal affairs, supervision, and other policies that made effective training virtually impossible.

Further, as members of the monitoring team became more acquainted with APD's training system in the early days of the monitoring process, it was clear that that system was not based on any clear form of needs assessment that would drive what would be trained or how it would be trained. Thus the first two critical pieces of any training development, clear and careful needs assessment and effective, clear, well-written policy were missing from the APD's existing training rubric at the time of the monitoring team's first assessment. Without a reasonable needs assessment, the agency does not know what to train; without effective policy, the agency does not know how to train. These two flaws would have undermined APD's training efforts, no matter how well intentioned or effectively managed.

After a brief discussion with the Chief of Police and key command staff responsible for training, the monitoring team agreed that a brief training hiatus, allowing time for meaningful training needs assessments and the development of understandable policy in such key areas as use of force, internal affairs, responding to persons in crisis, and high-risk critical task response was a far superior tactic to one of moving forward without clear guidance. As a result, some training was delayed pending development of an internal training planning process that was more likely to be successful than the one that existed at the time the monitoring team first began working with APD.

This approach, used in many well-respected police agencies, and agencies that have successfully navigated the consent decree management process, would implement the assessment-development-implementation-evaluation model recommended in many organizations, similar to Edwards Deming's quality-circle process. On November 2, 2015 the monitor will engage in a "conversation" with APD command staff regarding the training development cycle used with Pittsburgh Bureau of Police and with the New Jersey State Police. At that point, a coordinated, responsive, needs-based training evaluation can take place at APD, which should result in training specifically designed to address issues actually confronting APD. The monitoring team will, if so desired, take an active role in reviewing, critiquing, and facilitating revisions to training at APD, as opposed to simply "evaluating" the end result of the APD's efforts.

This approach is necessitated in part by the monitoring team's late arrival "on the job" in Albuquerque. Secure funding, for a variety of reasons, was not secured for the monitoring team until late May. The team's first full-site visit was, of necessity, delayed until June. Thus, the APD was deprived of critical insights

and assessments as their policy development--training plan--execution--evaluation--modification cycle was implemented.

Paragraphs 138-161 are classified as "pending" for the monitor's first report (IMR-1). All following reports will include detailed discussion of each of the requirements, including APD actions for the period, responses of the monitoring team to those actions, and findings regarding compliance status. While paragraphs 138-148 deal with "policy" directly, it is clear to the monitoring team that a great deal of training will need to be done before APD begins to develop adequate and responsive policy.

4.7.124 Compliance with Paragraph 138-161 Training

Paragraph 162 stipulates:

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

Methodology

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

Results

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

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

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

- A Chart of Sanctions / Progressive Discipline Matrix has been established and is generally followed, subject to more detailed comments in the paragraphs below. Subjects of investigations were generally held accountable (fair and appropriate punishment that follows progressive disciplinary system was imposed), subject to more detailed comments in the paragraphs below.
- The monitoring team recommends an articulation of reasons in every instance where discipline imposed does not follow the disciplinary matrix or recommendations of investigative or reviewing authorities. Deviations are acceptable where appropriate; however, a careful consideration of mitigating and/or aggravating circumstances or other reasons should be evidenced by a succinct statement of reasons.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.126 Compliance with Paragraph 163: Duty to Report Misconduct

Paragraph 163 stipulates:

APD shall require that all officers and employees report misconduct by any APD officer or employee, including themselves, to a supervisor or directly to the Internal Affairs Bureau for review and investigation. Where alleged misconduct is reported to a supervisor, the supervisor shall immediately document and report this information to the Internal Affairs Bureau. Failure to report or document alleged misconduct or criminal behavior shall be grounds for discipline, up to and including termination of employment.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Status, AO 3-43 Comment). This policy will require revision and formal adoption before the APD will be in primary

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

The monitoring team considers the "immediacy" of a supervisor's obligation to document and report misconduct as one of reasonableness under the totality of circumstances.

A review of randomly selected IAB and CPOA investigations by the monitoring team during this site did not reveal any instance of a supervisor failing to "immediately document and report" alleged misconduct to IA.

Results

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

4.7.127 Compliance with Task 164: Public Information on Civilian Complaints

Paragraph 164 stipulates:

Within six months of the Effective Date, APD and the Civilian Police Oversight Agency shall develop and implement a program to ensure the Albuquerque community is aware of the procedures to make civilian complaints against APD personnel and the availability of effective mechanisms for making civilian complaints.

Methodology

Members of the monitoring team had several meetings during the site visit during our first site visit in June, 2015. The team met with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

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

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

The APD draft policy was returned to APD as insufficient and needing a comprehensive rewrite and edit. The monitor notes this is a common theme with APD, and as such indicates a need for a refocus and upgrade of this critical piece of the compliance effort. CPOA policies are in draft form at the time of preparation of this document, and have not been reviewed by the monitor. Findings regarding related policies will be assessed by the monitor in the subsequent monitor's reports.

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

Results

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

4.7.128 Compliance with Paragraph 165: Availability of Complaint Forms

Paragraph 165 stipulates:

APD and the Civilian Police Oversight Agency shall make complaint forms and informational materials, including brochures and posters, available at appropriate government properties, including APD headquarters, Area stations, APD and City websites, City Hall, public libraries, community centers, and the office of the Civilian Police Oversight Agency. Individuals shall be able to submit civilian complaints through the APD and City websites and these websites shall include, in an identifiable and accessible form, complaint forms and information regarding how to file civilian complaints. Complaint forms, informational materials, and the APD and City websites shall specify that complaints may be submitted anonymously or on behalf of another person. Nothing in this Agreement prohibits APD from soliciting officer commendations or other feedback through the same process and methods as above.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, and reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

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

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

Results

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

4.7.129 Compliance with Paragraph 166: Public Information on Complaint Process

Paragraph 166 stipulates:

APD shall post and maintain a permanent placard describing the civilian complaint process that includes relevant contact information, such as telephone numbers, email addresses, and Internet sites. The placard shall specify that complaints may be submitted anonymously or on behalf of another person. APD shall require all officers to carry complaint forms, containing basic complaint information, in their Department vehicles. Officers shall also provide the officer's name, officer's identification number, and, if applicable, badge number upon request. If an individual indicates that he or she would like to make a misconduct complaint or requests a complaint form for alleged misconduct, the officer shall immediately inform his or her supervisor who, if available, will respond to the scene to assist the individual in providing and accepting appropriate forms and/or other available mechanisms for filing a misconduct complaint.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, "Status"). Once AO3-43 is revised and approved by the monitor, the APD will be in primary compliance with this task. During the next site visit, inspections will be conducted at appropriate government properties to view permanent placards with appropriate information describing the complaint process.

A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit did not reveal any investigation involving the failure to provide requested information to a prospective complainant or any instance

where a supervisor was not informed when a complainant indicated the desire to make a complaint.

Results

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

4.7.130 Compliance with Paragraph 167: Duty to Accept all Civilian Complaints

Paragraph 167 stipulates:

APD agrees to accept all civilian complaints and shall revise any forms and instructions on the civilian complaint process that could be construed as discouraging civilians from submitting complaints.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph. The team reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, "Results"). We expect that upon revision and formal adoption of AO 3-43, the APD will be in primary compliance of this task.

Complaint forms have been revised, and have been viewed by the monitoring team. The revised complaints and information and instructions contained therein do not discourage civilians from submitting complaints and should not be construed to discourage the same.

The APD website under "Steps for Filing a Misconduct Complaint" states that "Citizens must be aware of the city ordinance which governs false reports and states that it is unlawful for any person to intentionally make or file with any law enforcement agency any false, misleading, or unfounded report or statement." Although true, this can be construed as discouraging civilians from submitting complaints and should be revised.

Results

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

4.7.131 Compliance with Paragraph 168: Requirement for Multi-lingual Complaint Forms

Paragraph 168 stipulates:

Complaint forms and related informational materials shall be made available and posted in English and Spanish.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Status). Absent revision and formal adoption of AO 3-43, the APD will remain out of compliance on this task. Members of the monitoring team requested copies of complaint forms and informational materials in Spanish, and were provided same after the site visit and after initial development of the first report.

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

In the APD website, specifically Internal Affairs and Contact the Police windows, both lead to Report Police Misconduct window, which lists substations and government offices where complaint forms can be obtained with addresses and telephone numbers and also allows for submitting complaint online. The APD website Homepage does not directly lead to Report Police Misconduct window and should be revised

Results

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

Operational: **Not Yet Due**

4.7.132 Compliance with Paragraph 169: Training on Civilian Complaint Process

Paragraph 169 stipulates:

Within six months of the Operational Date, APD shall train all personnel in handling civilian complaint intake.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

Results

Members of the monitoring team were provided a spreadsheet, generated by the APD's PowerDMS intra-agency training platform. The document provided by the system indicates that the APD trained its personnel regarding complaint intake, classification and tracking during the time period of for this report. Data indicate that the agency trained 94.8 percent of the sworn and civilian workforce, with the remainder, those not trained, being shown on various forms of temporary duty, injury leave, military leave, FMLA leave, etc. The 94.8 percent "rounds up" to a .95 compliance rate; however, the monitoring team has expressed some concerns to APD about several issues which are currently being researched and responded to.

- The first of these involves those full-time employees who were on leave and not tested in April and May of 2015. The monitoring team needs to know if any of those have returned to work, and how many of those have taken the intake training and have been tested;
- The second issue involves a lack of test data demonstrating employee mastery of the data produced and reviewed through Power DMS (test dates, data test questions, and test scores are currently not available to the monitoring team);
- The third involves a probable data management error that showed some participants finishing the training process before they were shown to have started.

In conversations with APD personnel in prefatory phases of the monitoring process, the monitoring team was informed verbally that testing outcomes, use

data (how much time was spent per page of DMS product, etc.) would be available by participant. The monitoring team will review those data as they come available.

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

4.7.133 Compliance with Paragraph 170: Complaint Receipt Process

Paragraph 170 stipulates:

APD shall accept complaints regardless of when they are filed. The City shall encourage civilians to promptly report police misconduct so that full investigations can be made expeditiously and the full range of disciplinary and corrective action be made available.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). The monitoring team review of investigations during this site visit showed complaints more than ninety (90) days old being accepted and at least one complaint accepted where the date of incident was two years old at the time of filing the complaint.

The Civilian Police Oversight Agency informational brochure both addresses and encourages the benefit of filing complaints in a timely manner.

Results

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

4.7.134 Compliance with Paragraph 171: Prohibition of Refusal to Take Complaint

Paragraph 171 stipulates

The refusal to accept a misconduct complaint, discouraging the filing of a misconduct complaint, or providing false or misleading information about filing a misconduct complaint shall be grounds for discipline.

Methodology

The monitoring team has not yet been provided the regulation or order making the violation of this paragraph a ground for discipline.

A review of randomly selected IAB and CPOA investigations by the monitoring team during this site did not reveal any investigation dealing with the refusal to accept a misconduct complaint, the discouraging of filing one or the giving of false or misleading information about filing a misconduct complaint.

Results

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

4.7.135 Compliance with Paragraph 172: Acceptance of Anonymous and Third-Party Complaints

Paragraph 172 stipulates:

APD and the Civilian Police Oversight Agency shall accept all misconduct complaints, including anonymous and third-party complaints, for review and investigation. Complaints may be made in writing or verbally, in person or by mail, telephone (or TDD), facsimile, or electronic mail. Any Spanish-speaking individual with limited English proficiency who wishes to file a complaint about APD personnel shall be provided with a complaint form in Spanish to ensure that the individual is able to make a complaint. Such complaints will be investigated in accordance with this Agreement

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

Results

Policy mandating acceptance of all complaints is contained in AO 3-43, currently under review (see also paragraph 164, Results). The CPOA Complaint Form highlights that complaints may be submitted anonymously or on behalf of another person. The CPOA Complaint Form is also produced and available in Spanish.

The CPOA informational brochure also highlights that complaints may be made in writing or verbally, in person or by mail, telephone, facsimile, or online/electronic mail, and allows for the downloading of the complaint form.

The APD website (Misconduct Complaint) website makes clear that complaints may be submitted online or by obtaining complaint forms at substations and government offices and lists the specific substations and offices with addresses and phone numbers. The APD website (Misconduct Complaint) does not specify that complaints may be made verbally, by mail, telephone or by facsimile, and does not allow for the downloading of the complaint form.

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

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

Paragraph 173 stipulates:

All APD personnel who receive a misconduct complaint shall immediately inform a supervisor of the misconduct complaint so that the supervisor can ensure proper intake of the misconduct complaint. All misconduct complaints shall be submitted to the Internal Affairs Bureau by the end of the shift following the shift in which it was received.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). The timeliness of submitting complaints required by this paragraph is not a statistic that is separately tracked at the current time. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site revealed no violations of the policy required by this paragraph.

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

4.7.137 Compliance with Paragraph 174: Inclusion of Allegations of Misconduct by Civil or Criminal Judicial Officers

Paragraph 174 stipulates:

APD and the Civilian Police Oversight Agency shall develop a system to ensure that allegations by a judicial officer of officer misconduct made during a civil or criminal proceeding are identified and assessed for further investigation. Any decision to decline investigation shall be documented.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review(see also paragraph 164, Results). Although AO 3-43 contains the requirement to comply with this paragraph, there is no system described or in place that would ensure that such allegations made during civil or criminal proceedings would be identified and assessed.

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

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

Paragraph 175 stipulates:

APD and the Civilian Police Oversight Agency shall track allegations regarding misconduct involving individuals who are known to be homeless or have a mental illness, even if the complainant does not specifically label the misconduct as such.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and

reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

If a misconduct complaint involves an individual(s) who is homeless or has mental illness, the investigation notes these facts. There is currently no written policy requiring a separate tracking of allegations regarding misconduct involving individuals who are known to be homeless or have a mental illness. Although all allegations of misconduct are tracked, there currently is no special tracking of misconduct complaints involving an individual(s) who is homeless or has mental illness.

Results

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

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

Paragraph 176 stipulates that:

Within six months of the Operational Date, the Internal Affairs Bureau, in coordination with the Civilian Police Oversight Agency, shall develop and implement a centralized numbering and tracking system for all misconduct complaints. Upon the receipt of a complaint, the Internal Affairs Bureau shall promptly assign a unique numerical identifier to the complaint, which shall be provided to the complainant at the time the numerical identifier is assigned when contact information is available for the complainant.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Status, AO 3-43 Comment). It is expected that upon revision and formal adoption of AO 3-43, the APD will be in primary compliance of this task. A centralized numbering and tracking system has been implemented.

The monitoring team has been provided "screen shots" of data entry in inquiry screens from the APD/CPOA data management systems that show "sequencing" numbers for complaints received at APD. Policies to support this data system, and that allow APD, CPOA, DOJ and the monitoring team to assess the "shall be provided to the complainant" portion of this requirement are as of this date, pending.

IAB manages the tracking system, and assigns the identifier to complaints investigated by IAB and CPOA. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed that in all cases where contact information is available, the identifier is given to complainants as well as letters to civilian complainants explaining the outcome of investigation and containing the unique numerical identifier.

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

4.7.140 Compliance with Paragraph 177: IAB Complaint Data Management

Paragraph 177 stipulates:

The Internal Affairs Bureau's tracking system shall maintain accurate and reliable data regarding the number, nature, and status of all misconduct complaints, from initial intake to final disposition, including investigation timeliness and notification to the complainant of the interim status and final disposition of the investigation. This system shall be used to determine the status of complaints and to confirm that a complaint was received, as well as for periodic assessment of compliance with APD policies and procedures and this Agreement, including requirements on the timeliness of administrative investigations.

Methodology

Members of the monitoring team have seen no regulations or orders setting forth the requirements of this paragraph. The IAB tracking system has the ability to identify various pieces of relevant information and to produce data relevant to the IA function.

The monitoring team viewed a MRIAD Sort Report containing a Case #, Incident Date, Entry Date and Case Status along with subject identifying information for all Internal Affairs investigations closed during the monitoring period. The monitoring team also viewed an IA-PRO report that contained the allegations and case disposition for all Internal Affairs investigations closed during the monitoring period.

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

Results

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

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

Paragraph 178 stipulates:

Where a supervisor receives a complaint alleging that misconduct has just occurred, the supervisor shall gather all relevant information and evidence and provide the information and evidence to the Internal Affairs Bureau. All information should be referred to the Internal Affairs Bureau by the end of the shift following the shift in which the misconduct complaint was received, absent exceptional circumstances.

Methodology

Policy mandating compliance with this paragraph is contained in AO 3-43, (see also paragraph 164, Results), currently under review. It is expected that upon revision and formal adoption of AO 3-43, the APD will be in primary compliance of this task. The timeliness of submitting complaints required by this paragraph is not a statistic that is separately tracked at the current time. Review of randomly selected investigations by the monitoring team did not reveal any violations of this paragraph.

Results

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

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

Paragraph 179 stipulates:

Within three business days of the receipt of a misconduct complaint from a civilian, the Internal Affairs Bureau shall refer the complaint to the Civilian Police Oversight Agency.

Methodology

Policy mandating compliance with this paragraph is contained in AO 3-43, (see also paragraph 164, Results), currently under review. It is expected that upon revision and formal adoption of AO 3-43, the APD will be in primary compliance of this task. The timeliness of submitting complaints required by this paragraph is available in each individual investigation although the monitoring team was unable this site visit to verify whether it is a statistic that is separately tracked.

A review of randomly selected IAB investigations by the monitoring team during this site did not reveal any violations of the policy required by this paragraph.

Results

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

4.7.143 Paragraph 180: Handling of Internal Complaints by IAB

Paragraph 180 stipulates:

Internal misconduct complaints submitted by APD personnel shall remain with the Internal Affairs Bureau for review and classification. The Internal Affairs Bureau shall determine whether the internal complaint will be assigned to a supervisor for investigation or retained by the Internal Affairs Bureau for investigation. In consultation with the Chief, the commanding officer of the Internal Affairs Bureau shall also determine whether a civilian or internal complaint will be investigated criminally by the Internal Affairs Bureau, the Multi- Agency Task Force, and/or referred to the appropriate federal law enforcement agency.

Methodology

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

Draft Policy 2-05 sets forth the requirements of this paragraph including that the IAB commander, in consultation with the Chief, determines whether a civilian or internal complaint will be investigated criminally by the Internal Affairs Bureau,

the Multi- Agency Task Force, and/or referred to the appropriate federal law enforcement agency.

Policy mandating compliance with this paragraph is contained in AO 2-205, currently under review.

Results

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

4.7.144 Compliance with Paragraph 181: IAB Complaint Classification Protocol

Paragraph 181 stipulates:

APD shall continue to maintain an internal complaint classification protocol that is allegation-based rather than anticipated-outcome-based to guide the Internal Affairs Bureau in determining where an internal complaint should be assigned.

Methodology

The monitoring team has not yet been provided the SOP or Orders requiring the internal affairs complaint classification protocol set forth in this paragraph by members of the APD. The protocol that is currently followed is based on the nature of the allegations and the anticipated corresponding complexity of investigation in deciding whether to assign a case to the appropriate supervisor or to retain the case in the IAB.

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

Results

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

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

Paragraph 182 stipulates:

An internal complaint investigation may not be conducted by any supervisor who used force during the incident; whose conduct led to the injury of a person; who authorized the conduct that led to the reported incident or complaint; or who witnessed or was involved in the incident leading to the allegation of misconduct

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs investigations that were completed during this monitoring period.

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). It is expected that upon formal adoption of AO 3-43, the APD will be in primary compliance of this task. A review of randomly selected IAB investigations by the monitoring team during this site did not reveal any violations of the policy required by this paragraph.

Results

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

4.7.146 Compliance with Paragraph 183: Investigations Thorough and Reach Reliable Conclusions

Paragraph 183 stipulates:

APD and the Civilian Police Oversight Agency shall ensure that investigations of officer misconduct complaints shall be as thorough as necessary to reach reliable and complete findings. The misconduct complaint investigator shall interview each complainant in person, absent exceptional circumstances, and this interview shall be recorded in its entirety, absent specific, documented objection by the complainant. All officers in a position to observe an incident, or involved in any significant event before or after the original incident, shall provide a written statement regarding their observations, even to state that they did not observe anything.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). It is expected that upon formal adoption of AO 3-43, the APD will be in primary compliance of this task. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit showed compliance with the tasks of this paragraph. Investigations reviewed were thorough in relation to the allegations and circumstances of the reviewed cases. Complainants were interviewed in person when available and the interviews were recorded.

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

4.7.147 Compliance with Paragraph 184: Complaint Investigations Documented in Writing

Paragraph 184 stipulates:

APD and the Civilian Police Oversight Agency shall investigate all misconduct complaints and document the investigation, its findings, and its conclusions in writing. APD and the Civilian Police Oversight Agency shall develop and implement a policy that specifies those complaints other than misconduct that may be resolved informally or through mediation. Administrative closing or inactivation of a complaint investigation shall be used for the most minor policy violations that do not constitute a pattern of misconduct, duplicate allegations, or allegations that even if true would not constitute misconduct.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Status). It is expected that upon formal adoption of AO 3-43, the APD will be in primary compliance of this task. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit showed that all findings and conclusions are documented in writing. Further, a review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit showed that the use of discretion in selecting matters for mediation was appropriate and had the agreement of the complainant. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit showed that the use of discretion in administratively closing certain matters was appropriate.

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

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

Paragraph 185 stipulates:

APD shall require personnel to cooperate with Internal Affairs Bureau and Civilian Police Oversight Agency investigations, including appearing for an interview when requested by an APD or Civilian Police Oversight Agency investigator and providing all requested documents and evidence under the person's custody and control. Supervisors shall be notified when a person under their supervision is summoned as part of a misconduct complaint or internal investigation and shall facilitate the person's appearance, absent extraordinary and documented circumstances.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

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

A review of randomly selected IAB and CPOA investigations by the monitoring team during this site did not reveal any instances of non-compliance with the tasks of this paragraph.

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

4.7.149 Compliance with Paragraph 186: Protocols to Separate Administrative and Criminal Investigations

Paragraph 186 stipulates:

APD and the City shall develop and implement protocols to ensure that criminal and administrative investigations of APD personnel are kept appropriately separate, to protect APD personnel's rights under the Fifth Amendment. When an APD employee affirmatively refuses to give a voluntary statement and APD has probable cause to believe the person has committed a crime, APD shall consult with the prosecuting agency (e.g., District Attorney's Office or USAO) and seek the approval of the Chief before taking a compelled statement.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Policy mandating compliance with this paragraph is contained in AO 2-05, currently under review. It is expected that upon revision and formal adoption of AO 2-05, and protocols to ensure that criminal and administrative investigations are kept appropriately separate, the APD will be in primary compliance of this task.

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

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

Operational: **Not Yet Due**

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

Paragraph 187 stipulates:

Advisements by the Internal Affairs Bureau or the Civilian Police Oversight Agency to APD personnel of their Fifth Amendment rights shall only be given where there is a reasonable likelihood of a criminal investigation or prosecution of the subject employee.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Collective Bargaining Agreement, 20.1.8, requires Miranda Rights be given in accordance with "the Miranda Decision or applicable law."

The monitoring team points out that "reasonable likelihood of a criminal investigation or prosecution" and the requirements of "the Miranda Decision or applicable law" are different standards that could under certain circumstances cause confusion of application.

Members of the monitoring have seen no other regulations or orders setting forth the requirements of this paragraph. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed showed no cases where an APD employee was advised of Fifth Amendment rights by IAB or CPOA.

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

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

Paragraph 188 stipulates:

If at any time during misconduct complaint intake or investigation the investigator determines that there may have been criminal conduct by any APD personnel, the investigator shall immediately notify the Internal Affairs Bureau commanding officer. If the complaint is being investigated by the Civilian Police Oversight Agency, the investigator shall transfer the administrative investigation to the Internal Affairs Bureau. The Internal Affairs Bureau commanding officer shall immediately notify the Chief. The Chief shall consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation. Where an allegation is investigated criminally, the Internal Affairs Bureau shall continue with the administrative investigation of the allegation. Consistent with Paragraph 186, the Internal Affairs Bureau may delay or decline to conduct an interview of the subject personnel or other witnesses until completion of the criminal investigation unless, after consultation with the prosecuting agency and the Chief, the Internal Affairs Bureau deems such interviews appropriate.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Policy mandating compliance with this paragraph is contained in AO 2-05 and 3-43, currently under review. It is expected that upon revision and formal adoption of these Orders, the APD will be in primary compliance of this task. A review of randomly selected IAB and CPOA investigations by the monitoring team during this monitoring period showed no cases where a concurrent criminal investigations was implicated or warranted and therefore the monitoring team was unable to monitor this aspect of this paragraph.

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

4.7.152 Compliance with Paragraph 189: Provision of Public Statements

Paragraph 189 stipulates:

Nothing in this Agreement or APD policy shall hamper APD personnel's obligation to provide a public safety statement regarding a work-related incident or activity, including Use of Force Reports and incident reports. APD shall make clear that all statements by personnel in incident reports, arrest reports, Use of Force Reports and similar documents, and statements made in interviews such as those conducted in conjunction with APD's

routine use of force investigation process, are part of each employee's routine professional duties and are not compelled statements. Where an employee believes that providing a verbal or written statement will be self-incriminating, the employee shall affirmatively state this and shall not be compelled to provide a statement without prior consultation with the prosecuting agency (e.g., District Attorney's Office or USAO), and approval by the Chief.

Methodology

Members of the monitoring team have seen no regulations or orders setting forth the requirements of this paragraph. A review of current and pending policies revealed no hampering or discouragement of obligation to provide a public safety statement regarding a work-related incident or activity.

The requirement of consultation with the appropriate prosecuting agency in the event an employee invokes the privilege against self-incrimination is contained in AO 2-205, currently under review. It is expected that upon revision and formal adoption of AO 2-205, the APD will be in primary compliance of this task.

Results

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

4.7.153 Compliance with Paragraph 190: Requirement to Consider all Relevant Evidence

Paragraph 190 stipulates:

In each investigation, APD and the Civilian Police Oversight Agency shall consider all relevant evidence, including circumstantial, direct, and physical evidence. There will be no automatic preference for an officer's statement over a non-officer's statement, nor will APD or the Civilian Police Oversight Agency disregard a witness's statement merely because the witness has some connection to the complainant or because of any criminal history. During their investigation, APD and the Civilian Police Oversight Agency shall take into account any convictions for crimes of dishonesty of the complainant or any witness. APD and the Civilian Police Oversight Agency shall also take into account the record of any involved officers who have been determined to be deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation. APD and the Civilian Police Oversight Agency shall make efforts to resolve material inconsistencies between witness statements.

Methodology

Policy mandating compliance with this paragraph is contained in AO 2-205, currently under review. It is expected that upon revision and formal adoption of AO 2-205, the APD will be in primary compliance of this task. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed that in all but one case all relevant evidence was considered.

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

The review revealed no instances of preference for an officer's statement over a non-officer's statement, nor did it reveal any instances where a witness' statement was disregarded because the witness had some connection to the complainant or because of any criminal history.

The review showed no cases where an involved officer had been determined to have been deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation. The review indicated adequate articulation of reasonable grounds for credibility determinations.

Results

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

4.7.154 Compliance with Paragraph 191: 90 Days to Complete Administrative Investigations

Paragraph 191 stipulates:

All administrative investigations conducted by the Internal Affairs Bureau or the Civilian Police Oversight Agency shall be completed within 90 days of the initiation of the complaint investigation. The 90-day period shall not include time for review. An extension of the investigation of up to 30 days may be granted but only if the request for an extension is in writing and is approved by the Chief. Review and final approval of the

investigation, and the determination and imposition of the appropriate discipline, shall be completed within 30 days of the completion of the investigation. To the extent permitted by state and city law, extensions may also be granted in extenuating circumstances, such as military deployments, hospitalizations of the officer, and extended absences.

Methodology

The Collective Bargaining Agreement, 20.1.16, requires compliance with the policy of this paragraph. Members of the monitoring have seen no other regulations or orders setting forth the requirements of this paragraph.

A review of randomly selected IAB and CPOA investigations by the monitoring team during this site revealed two CPOA cases where discipline could not be imposed because of the failure to comply with time requirements. The monitoring team is concerned regarding the ability of the CPOA to make recommendations of discipline to the Chief within the time periods allowed for imposition of discipline.

Results

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

4.7.155 Compliance with Paragraph 192: Acceptable Dispositions

Paragraph 192 stipulates:

APD or Civilian Police Oversight Agency investigator shall explicitly identify and recommend one of the following dispositions for each allegation of misconduct in an administrative investigation:

- a) "Unfounded," where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer;
- b) "Sustained," where the investigation determines, by a preponderance of the evidence, that the alleged misconduct did occur;
- c) "Not Sustained," where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred;
- d) "Exonerated," where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training;
- e) "Sustained violation not based on original complaint," where the investigation determines, by a preponderance of the evidence, that misconduct did occur that was not alleged in the original complaint but that was discovered during the misconduct investigation; or
- f) "Administratively closed," where the policy violations are minor, the allegations are duplicative, or investigation cannot be conducted because of the lack of information in the complaint.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). It is expected that upon formal adoption of AO 3-43, the APD will be in primary compliance of this task.

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

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

4.7.156 Compliance with Paragraph 193: Reopening Administrative Investigations

Paragraph 193 stipulates:

All administratively closed complaints may be re-opened if additional information becomes available. The deadlines contained in Paragraph 191 shall run from when the complaint is re-opened.

Methodology

Members of the monitoring team reviewed policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Results). It is expected that upon revision and formal adoption of AO 3-43, the APD will be in primary compliance of this task. A review of randomly selected

IAB and CPOA investigations by the monitoring team during this site visit did not reveal any cases where administratively closed complaints were reopened.

Results

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

4.7.157 Compliance with Paragraph 194: Assessing Compliance with Training and Legal Standards

Paragraph 194 stipulates:

In addition to determining whether APD personnel committed the alleged misconduct, administrative investigations shall assess and document whether the action was in compliance with training and legal standards and whether the incident suggests the need for a change in policy, procedure, or training. In reviewing completed administrative investigations, APD shall also assess and document whether: (a) the incident suggests that APD should revise strategies and tactics; and (b) the incident indicates a need for additional training, counseling, or other non-disciplinary corrective measures. This information shall be shared with the relevant commander(s).

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Policy mandating compliance with this paragraph is contained in AO 3-43, currently under review (see also paragraph 164, Status). It is expected that upon formal adoption of AO 3-43, the APD will be in primary compliance of this task. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site visit revealed a standard form used in the investigations in compliance with this paragraph. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site showed that the judgment/discretion used to determine if an incident suggests measures called for in subparagraphs (a) and (b) of this paragraph to be appropriate.

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

Operational: **Not Yet Due**

4.7.158 Compliance with Paragraph 195: Retaliation Prohibited

Paragraph 195 stipulates:

The City shall continue to expressly prohibit all forms of retaliation, including discouragement, intimidation, coercion, or adverse action, against any person who reports misconduct, makes a misconduct complaint, or cooperates with an investigation of misconduct

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Members of the monitoring have seen no regulations or orders setting forth the requirements of this paragraph. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site did not reveal any cases involving violations of the policies contained in this paragraph. A review of materials including complaint forms and websites did not reveal any discouragement of making a complaint or report of misconduct.

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

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

Paragraph 196 is reported in Section Three of this report.

4.7.160 Compliance with Paragraph 197: Retaliation Grounds for Discipline

Paragraph 197 stipulates:

Retaliation for reporting misconduct or for cooperating with an investigation of misconduct shall be grounds for discipline, up to and including termination of employment.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Members of the monitoring have seen no regulations or orders setting forth the requirements of this paragraph. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site did not reveal any cases implicating this paragraph.

Compliance

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

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

Paragraph 198 stipulates:

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

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period, as well as the IAB Tentative Organizational Chart.

Results

The staffing requirements for the IAB are set forth in in AO 2-05, currently under review. It is expected that upon revision and formal adoption of AO 2-05, the APD will be in primary compliance of this task.

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

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

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

Paragraph 199 stipulates:

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

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Members of the monitoring have seen no regulations or orders setting forth the requirements of this paragraph. Further, members of the monitoring have seen no training records documenting compliance with this paragraph.

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

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

Paragraph 200 stipulates:

Investigators from the Civilian Police Oversight Agency shall receive at least 40 hours of initial training in conducting misconduct investigations within one year of the Effective Date, and shall receive at least eight hours of training each year. The training shall include instruction on APD's policies and protocols on taking compelled statements and conducting parallel administrative and criminal investigations.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Members of the monitoring have seen no regulations or orders setting forth the requirements of this paragraph. Further, members of the monitoring have seen no training records documenting compliance with this paragraph; the CPOA is still within the extended time period to conduct such training.

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

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

Paragraph 201 stipulates:

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

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Policy regarding the APD disciplinary system is set forth in General Order 1-09. Statistics regarding discipline imposed during the monitoring period showed a wide range of discipline imposed. A review of randomly selected IAB and CPOA investigations by the monitoring team during this site did not reveal any instances where the monitoring team determined the discipline imposed was an unreasonable finding.

The monitoring team's review of randomly selected IAB and CPOA investigations by the monitoring team during this site did reveal one (1) case where progressive discipline was not followed and two (2) cases where the punishment imposed deviated from the.

Deviation in imposing punishment from progressive discipline matrix or from recommended discipline is not per se a violation of policy as long as justifiable reasons are present and are articulated for the record.

The monitoring team would expect adequate statements of reasons in instances where progressive discipline is not followed and/or punishment imposed differs from the recommendations of Chain of Command.

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

4.7.165 Compliance with Paragraph 202: Disciplinary Matrix Required

Paragraph 202 stipulates:

APD shall establish a disciplinary matrix that:

- a) establishes a presumptive range of discipline for each type of rule violation;
- b) increases the presumptive discipline based on an officer's prior violations of the same or other rules;
- c) sets out defined mitigating or aggravating factors;
- d) requires that any departure from the presumptive range of discipline must be justified in writing;

- e) provides that APD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline; and
- f) provides that APD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed.

Methodology

Members of the monitoring team had several meetings during the site visit with persons charged with the responsibility of responding to task(s) included in this paragraph, reviewed documents related to the Internal Affairs process, and reviewed a random selection of Internal Affairs Bureau and Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

Policy regarding the APD disciplinary system is set forth in General Order 1-09. Seven (7) classes of violations are listed in a Chart of Sanctions and presumptive ranges of discipline are established for each class depending on whether it is a first offense, second offense or third/subsequent to third offense (frequency of occurrence).

Although the policy mandates consideration of mitigating and aggravating circumstances, it fails to set out defined or exemplar mitigating or aggravating circumstances. The policy requires any deviation from the use of the sanctions to be justified by listing the mitigating or aggravating circumstances.

The policy fails to provide that APD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline. The policy fails to provide that APD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed.

The monitoring team recommends this policy be rewritten to comply with the requirements of this paragraph.

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

4.7.166 Compliance with Paragraphs 203-211 Staffing Study

Paragraphs 203-211 are related to staffing, which is being addressed by a separate consultant. The results of the Weiss Team's staffing were not complete as of the operational dates established for this first Monitor's Report. Once the

results of that project are submitted, the monitoring will opine on staffing only as it relates to the requirements of paragraphs 203-211.

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

4.7.167 Compliance with Paragraph 212

Paragraph 212 stipulates:

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

Methodology

During the first site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, and identified current systems development processes and expected due dates.

Results

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

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

4.7.168 Compliance with Paragraph 213: EIS Threshold Levels

Paragraph 213 stipulates:

APD shall review and adjust, where appropriate, the threshold levels for each Early Identification System indicator to allow for peer-group comparisons between officers with similar assignments and duties

Methodology

During the first site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, and identified current systems development processes and expected due dates.

Results:

Based on a review of the planned system, IAPro as planned appears to the monitoring team to have the capabilities called for in this paragraph. The system is not yet functional, and is still in the testing phase

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

4.7.169 Compliance with Paragraph 214: EIS Rolling Thresholds

Paragraph 214 states:

APD shall implement rolling thresholds so that an officer who has received an intervention of use of force should not be permitted to engage in additional uses of force before again triggering a review.

Methodology

During the first site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, and identified current systems development processes and expected due dates.

Results

APD currently uses rolling thresholds when assessing officer use-of-force events, thus necessitating a review of every officer use of force. The agency is currently planning transition to "Blue-Team" software that will allow uses of force to be reviewed and assessed in "real time." In-depth assessment and planning of review triggers and time limits are being planned, and should be facilitated by the new software when it comes on line.

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

Paragraph 215 stipulates:

The Early Intervention System shall be a component of an integrated employee management system and shall include a computerized relational database, which shall be used to collect, maintain, integrate, and retrieve data department-wide and for each officer regarding, at a minimum:

- a) uses of force;
- b) injuries and deaths to persons in custody;
- c) failures to record incidents with on-body recording systems that are required to be recorded under APD policy, whether or not corrective action was taken, and cited violations of the APD's on-body recording policy;
- d) all civilian or administrative complaints and their dispositions;
- e) all judicial proceedings where an officer is the subject of a protective or restraining order;
- f) all vehicle pursuits and traffic collisions involving APD equipment;
- g) all instances in which APD is informed by a prosecuting authority that a declination to prosecute any crime occurred, in whole or in part, because the officer failed to activate his or her on-body recording system;
- h) all disciplinary action taken against employees;
- i) all non-punitive corrective action required of employees;
- j) all awards and commendations received by employees, including those received from civilians, as well as special acts performed by employees;
- k) demographic category for each civilian involved in a use of force or search and seizure incident sufficient to assess bias;
- l) all criminal proceedings initiated against an officer, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the City and/or its officers or agents, allegedly resulting from APD operations or the actions of APD personnel; and
- m) all offense reports in which an officer is a suspect or offender

Methodology

During the first site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, and identified current systems development processes and expected due dates.

Results

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

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

4.7.171 Compliance with Paragraph 216: EIS Protocols

Paragraph 216 stipulates:

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

Methodology

During the first site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, and identified current systems development processes and expected due dates.

Results

The concept of an Early Intervention Systems is already a component and has been a component of Internal Affairs planning for some time. IAB personnel are aware of the benefits offered by the system, and are simply awaiting development of guidance via written policy, procedures, protocols and training so that the system can "go live." No timeline for those developments is currently available.

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

4.7.172 Compliance with Paragraph 217: Retention Schedule for EIS Data

Paragraph 217 stipulates:

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

Methodology

During the first site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, and identified current systems development processes and expected due dates.

Results

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

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.173 Compliance with Paragraph 218: Training Regarding EIS

Paragraph 218 stipulates:

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

Methodology

During the first site visit, members of the monitoring team met with the Internal Affairs personnel responsible for Early Intervention System development and implementation, and identified current systems development processes and expected due dates.

Results

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

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

4.7.174 Compliance with Paragraph 219: Updates and Revisions to EIS

Paragraph 219 stipulates:

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

Methodology:

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

Results

Not Applicable. No changes planned at this time.

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

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

Paragraph 220 stipulates:

To maintain high-level, quality service; to ensure officer safety and accountability; and to promote constitutional, effective policing, APD is committed to the consistent and effective use of on-body recording systems. Within six months of the Operational Date, APD agrees to revise and update its policies and procedures regarding on-body recording systems to require:

- a) specific and clear guidance when on-body recording systems are used, including who will be assigned to wear the cameras and where on the body the cameras are authorized to be placed;

- b) officers to ensure that their on-body recording systems are working properly during police action;
- c) officers to notify their supervisors when they learn that their on-body recording systems are not functioning;
- d) officers are required to inform arrestees when they are recording, unless doing so would be unsafe, impractical, or impossible;
- e) activation of on-body recording systems before all encounters with individuals who are the subject of a stop based on reasonable suspicion or probable cause, arrest, or vehicle search, as well as police action involving subjects known to have mental illness;
- f) supervisors to review recordings of all officers listed in any misconduct complaints made directly to the supervisor or APD report regarding any incident involving injuries to an officer, uses of force, or foot pursuits;
- g) supervisors to review recordings regularly and to incorporate the knowledge gained from this review into their ongoing evaluation and supervision of officers; and
- h) APD to retain and preserve non-evidentiary recordings for at least 60 days and consistent with state disclosure laws, and evidentiary recordings for at least one year, or, if a case remains in investigation or litigation, until the case is resolved.

Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

Results

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

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

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

Paragraph 221 stipulates:

APD shall submit all new or revised on-body recording system policies and procedures to the Monitor and DOJ for review, comment, and approval prior to publication and implementation. Upon approval by the Monitor and DOJ, policies shall be implemented within two months

Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

Results

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

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

4.7.177 Compliance with Paragraph 222: Training on OBRD Use

Paragraph 222 stipulates:

The Parties recognize that training regarding on-body recording systems is necessary and critical. APD shall develop and provide training regarding on-body recording systems for all patrol officers, supervisors, and command staff. APD will develop a training curriculum, with input from the Monitor and DOJ that relies on national guidelines, standards, and best practices

Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

Results

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

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

4.7.178 Compliance with Paragraph 223: Testing Schedule for OBRD

Paragraph 223 stipulates:

APD agrees to develop and implement a schedule for testing on-body recording systems to confirm that they are in proper working order. Officers shall be responsible for ensuring that on-body recording systems assigned to them are functioning properly at the beginning and end of each shift according to the guidance of their system's manufacturer and shall report immediately any improperly functioning equipment to a supervisor.

Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

Results

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

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

4.7.179 Compliance with Paragraph 224: Supervision of OBRD Use

Paragraph 224 stipulates:

Supervisors shall be responsible for ensuring that officers under their command use on-body recording systems as required by APD policy. Supervisors shall report equipment problems and seek to have equipment repaired as needed. Supervisors shall refer for investigation any officer who intentionally fails to activate his or her on-body recording system before incidents required to be recorded by APD policy

Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

Results

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

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

4.7.180 Compliance with Paragraph 225: Review of OBRD Video

Paragraph 225 states:

At least on a monthly basis, APD shall review on-body recording system videos to ensure that the equipment is operating properly and that officers are using the systems appropriately and in accordance with APD policy and to identify areas in which additional training or guidance is needed

Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

Results

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

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

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

Paragraph 226 stipulates:

APD policies shall comply with all existing laws and regulations, including those governing evidence collection and retention, public disclosure of information, and consent

Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

Results

Final policies are pending.

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

4.7.182 Compliance with Paragraph 227: Storage of OBRD Video

Paragraph 227 stipulates:

APD shall ensure that on-body recording system videos are properly categorized and accessible. On-body recording system videos shall be classified according to the kind of incident or event captured in the footage.

Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

Results

Final policies are pending

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

4.7.183 Compliance with Paragraph 228: Reporting Reasons for Failing to Record via OBRD

Paragraph 228 stipulates:

Officers who wear on-body recording systems shall be required to articulate on camera or in writing their reasoning if they fail to record an activity that is required by APD policy to be recorded. Intentional or otherwise unjustified failure to activate an on-body recording system when required by APD policy shall subject the officer to discipline

Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

Results

Final policies are pending

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

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

Paragraph 229 stipulates:

APD shall ensure that on-body recording systems are only used in conjunction with official law enforcement duties. On-body recording systems shall not be used to record encounters with known undercover officers or confidential informants; when officers are engaged in personal activities; when officers are having conversations with other Department personnel that involve case strategy or tactics; and in any location where individuals have a reasonable expectation of privacy (e.g., restroom or locker room)

Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

Results

Final policies are pending.

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

4.7.185 Compliance with Paragraph 230: Storage of OBRD Video

Paragraph 230 stipulates

APD shall ensure that all on-body recording system recordings are properly stored by the end of each officer's subsequent shift. All images and sounds recorded by on-body recording systems are the exclusive property of APD

Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

Results

Final policies are pending

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

4.7.186 Compliance with Paragraph 231: OBRD Best Practices

Paragraph 231 stipulates:

The Parties are committed to the effective use of on-body recording systems and to utilizing best practices. APD currently deploys several different platforms for on-body recording systems that have a range of technological capabilities and cost considerations. The City has engaged outside experts to conduct a study of its on-body recording system program. Given these issues, within one year of the Operational Date, APD shall consult with community stakeholders, officers, the police officer's union, and community residents to gather input on APD's on-body recording system policy and to revise the policy, as necessary, to ensure it complies with applicable law, this Agreement, and best practices

Methodology

During the first site visit, members of the monitoring team met with the APD personnel responsible for On-Body Recording Systems and identified current policy and training development processes and expected due dates.

Results

Final policies are pending

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

4.7.187 Compliance with Paragraph 233: Recruitment and Selection Planning

Paragraph 233 stipulates:

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

Results

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

Results

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

4.7.188 Compliance with Paragraph 234: Recruiting and Selection Standards

Paragraph 234 stipulates:

APD's recruitment plan shall include specific strategies for attracting a diverse group of applicants who possess strategic thinking and problem-solving skills, emotional maturity, interpersonal skills, and the ability to collaborate with a diverse cross-section of the community

Methodology

During the first site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment Plan development and implementation, and identified current development processes and expected due dates.

Results

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

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

Paragraph 235 stipulates:

APD's recruitment plan will also consult with community stakeholders to receive recommended strategies to attract a diverse pool of applicants. APD shall create and maintain sustained relationships with community stakeholders to enhance recruitment efforts.

Methodology

During the first site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment Plan development and implementation, and identified current development processes and expected due dates.

Results

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

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

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

Paragraph 236 stipulates:

APD shall develop and implement an objective system for hiring and selecting recruits. The system shall establish minimum standards for recruiting and an objective process for selecting recruits that employs reliable and valid selection devices that comport with best practices and anti-discrimination laws

Methodology

During the first site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment Plan development and implementation, and identified current development processes and expected due dates.

Results

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

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

4.7.191 Compliance with Paragraph 237: Selection Processes Articulated

Paragraph 237 stipulates:

APD shall continue to require all candidates for sworn personnel positions, including new recruits and lateral hires, to undergo a psychological, medical, and polygraph examination to determine their fitness for employment. APD shall maintain a drug-testing program that provides for reliable and valid pre-service testing for new officers and random testing for existing officers. The program shall continue to be designed to detect the use of banned or illegal substances, including steroids

Methodology

During the first site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment Plan development and implementation, and identified current development processes and expected due dates.

Results

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

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

4.7.192 Compliance with Paragraph 238: Background Investigations for Recruits

Paragraph 238 stipulates:

APD shall ensure that thorough, objective, and timely background investigations of candidates for sworn positions are conducted in accordance with best practices and federal anti-discrimination laws. APD's suitability determination shall include assessing a candidate's credit history, criminal history, employment history, use of controlled substances, and ability to work with diverse communities.

Methodology

During the first site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment Plan development and implementation, and identified current development processes and expected due dates.

Results

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

4.7.193 Compliance with Paragraph 239: Background Investigations for Lateral Hires

Paragraph 239 stipulates:

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

Methodology

During the first site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment Plan development and implementation, and identified current development processes and expected due dates.

Results

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

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

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.194 Compliance with Paragraph 240: Recruiting Annual Reports

Paragraph 240 stipulates:

APD shall annually report its recruiting activities and outcomes, including the number of applicants, interviewees, and selectees, and the extent to which APD has been able to recruit applicants with needed skills and a discussion of any challenges to recruiting high-quality applicant

Methodology

During the first site visit, members of the monitoring team met with Training Academy personnel responsible for the Recruitment Plan development and implementation, and identified current development processes and expected due dates.

Results

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

Primary: Not Yet Due

Secondary: Not Yet Due

Operational: Not Yet Due

4.7.195 Compliance with Paragraph 241: Fair Promotion Practices

Paragraph 241 stipulates:

APD shall develop and implement fair and consistent promotion practices that comport with best practices and federal anti-discrimination laws.

- a. **APD shall utilize multiple methods of evaluation for promotions to the ranks of Sergeant and Lieutenant. APD shall provide clear guidance on promotional criteria and prioritize effective, constitutional, and community- oriented policing as criteria for all promotions.**
- b. **These criteria should account for experience, protection of civil rights, discipline history, and previous performance evaluations**

Methodology

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

Results

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

4.7.196 Compliance with Paragraph 242: Objective Criteria for Promotions

Paragraph 242 stipulates:

APD shall develop objective criteria to ensure that promotions are based on knowledge, skills, and abilities that are required to perform supervisory and management duties in core substantive areas.

Methodology

APD has secured promotional practices policies from Tuscon, AZ PD and the Las Vegas Metro PD, and using those and the CASA as guides, has flowcharted the proposed promotional practice. No APD assessments of knowledge, skills and abilities (KSAs) have been provided to the monitoring team as of this point.

Results

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

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

Paragraph 243 stipulates:

243. Within six months of the Effective Date, APD shall develop and implement procedures that govern the removal of officers from consideration from promotion for pending or final disciplinary action related to misconduct that has resulted or may result in a suspension greater than 24 hours.

Methodology

The City has developed draft policies regarding this requirement, but they had not been provided to the monitoring team as of the operational date for the monitor's first report.

Results

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

4.7.198 Compliance with Paragraph 244: Fair Performance Evaluations

Paragraph 244 stipulates:

244. APD shall develop and implement fair and consistent practices to accurately evaluate the performance of all APD officers in areas related to constitutional policing, integrity, community policing, and critical police functions on both an ongoing and annual basis. APD shall develop objective criteria to assess whether officers meet performance goals.

Methodology

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

Results

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

4.7.199 Compliance with Paragraph 245: Annual Performance Evaluations

Paragraph 245 stipulates:

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

Methodology

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

Results

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

4.7.200 Compliance with Paragraphs 255-270: Community Outreach

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

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

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

4.7.201 Compliance with Paragraph 271: Responsibilities of CPOA

Paragraph 271 stipulates:

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

Methodology

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

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

Results

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

4.7.202 Compliance with Paragraph 272: CPOA Independence

Paragraph 272 stipulates:

The City shall ensure that the agency remains accountable to, but independent from, the Mayor, the City Attorney's Office, the City Council, and APD. None of these entities shall have the authority to alter the agency's findings, operations, or processes, except by amendment to the agency's enabling ordinance.

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

A review of the applicable Ordinance and observations by the monitoring team demonstrates that the CPOA remains accountable to, but independent from, the Mayor, the City Attorney's Office, the City Council, and APD.

Results

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

4.7.203 Compliance with Paragraph 273: Membership of CPOA

Paragraph 273 stipulates:

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

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

The Ordinance sets forth the requirements of this paragraph for members of the CPOA. The same requirements are not set forth for members of the CPOA. Members of the monitoring team during this site visit have seen no other policies, rules and/or procedures of the CPOA setting forth the requirements of this paragraph other than the Ordinance.

The monitoring team was unable to review during this site visit the background of individuals appointed to serve on the agency.

Compliance

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

4.7.204 Compliance with Paragraph 274: Initial Training for CPOA

Paragraph 274 stipulates:

Within six months of their appointment, the City shall provide 24 hours of training to each individual appointed to serve on the agency that covers, at a minimum, the following topics:

- a) This Agreement and the United States' Findings Letter of April 10, 2014;
- b) The City ordinance under which the agency is created;
- c) State and local laws regarding public meetings and the conduct of public officials;
- d) Civil rights, including the Fourth Amendment right to be free from unreasonable searches and seizures, including unreasonable uses of force;

- e) All APD policies related to use of force, including policies related to APD's internal review of force incidents; and
- f) Training provided to APD officers on use of force.

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period. The monitoring team has also reviewed PowerPoint presentations, proposed by legal counsel to the CPOA, of civil rights and Fourth Amendment training and the CASA.

Results

The Ordinance sets forth some of the training (use of force, civil rights training including Fourth Amendment training) requirements of this paragraph for members of the Oversight Board. The same requirements are not set forth for members of the CPOA.

The monitoring team has seen no other policies, rules and/or procedures of the CPOA this site visit that set forth the requirements of this paragraph. The monitoring team was unable to review during this site visit training records demonstrating compliance with this paragraph.

The City is still within the extension of time to perform such training. The monitoring team finds the proposed Civil Rights, Fourth Amendment and CASA training is professional and appropriately addresses the subject matter required by the CASA.

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

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

Paragraph 275 stipulates:

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

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of CPOA investigations that were completed during this monitoring period. The monitoring team has also reviewed PowerPoint presentations, proposed by legal counsel to the CPOA, describing civil rights and Fourth Amendment training and the CASA.

Results

The CPOA Ordinance fails to address training of Agency members. The monitoring team has seen no other policies, rules and/or procedures of the CPOA this site visit that set forth the requirements of this paragraph. The monitoring team was unable to review, during the first site visit, training records demonstrating compliance with this paragraph, although plans were obviously being developed to provide training at a future date.

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

4.7.206 Compliance with Paragraph 276: Field Training for CPOA

Paragraph 276 stipulates:

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

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

The Ordinance forming and empowering the CPOA sets forth the requirements of this paragraph for members of the Oversight Board. The same requirements are not set forth for members of the Agency. The monitoring team has seen no other

policies, rules and/or procedures of the CPOA this site visit that set forth the requirements of this paragraph.

The monitoring team was unable to review training records demonstrating compliance with this paragraph during the June site visit. This will be completed if the data are available during the next team site visit in March, 2016.

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

4.7.207 Compliance with Paragraph 277: Resources for CPOA

Paragraph 277 stipulates:

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

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

The Ordinance empowering the CPOA requires that the agency employ "such staff as necessary to carry out its functions . . . subject to budget sufficiency . . ." The monitoring team was not able to review any other policies, rules and/or procedures of the CPOA that set forth the requirements of this paragraph at that time. Members of the monitoring team visited the CPOA offices and assessed the sufficiency of office space, equipment, and other facilities. The office was appropriately housed in a facility separate from the City of Albuquerque/Bernalillo Government Center, the APD and APD substations.

The office appeared to contain adequate, albeit less than ideal, space for conducting business. The monitoring team reviewed a Table of Organization for the Agency. All positions except one (Community Outreach) was filled during the time of the site visit.

Despite what appear to be sufficient resources, the monitoring team is concerned about the time some CPOA investigations take to be completed. A review of staffing and/or individual performance per investigator may be needed in order to improve the timeliness of completing investigations. ***The monitoring team is also concerned about the inability of having POB recommendations to the Chief completed in accordance with the time requirements of imposing discipline.***

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

4.7.208 Compliance with Paragraph 278: Budget for CPOA

Paragraph 278 stipulates:

The City shall provide the agency a dedicated budget and grant the agency the authority to administer its budget in compliance with state and local laws. The agency shall have the authority to hire staff and retain independent legal counsel as necessary.

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA, visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Agency investigations that were completed during this monitoring period.

Results

The Ordinance empowering the CPOA sets forth the requirements of this paragraph. Independent legal counsel has been hired for the CPOA, and observations of the CPOA and interviews of the CPOA Director and staff demonstrates full compliance with this paragraph.

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

4.7.209 Compliance with Paragraph 279 : Investigative Staff for CPOA

Paragraph 279 stipulates:

The agency shall retain a full-time, qualified investigative staff to conduct thorough, independent investigations of APD's civilian complaints and review of serious uses of

force and officer-involved shootings. The investigative staff shall be selected by and placed under the supervision of the Executive Director. The Executive Director will be selected by and work under the supervision of the agency. The City shall provide the agency with adequate funding to ensure that the agency's investigative staff is sufficient to investigate civilian complaints and review serious uses of force and officer-involved shootings in a timely manner.

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

The Ordinance establishing the CPOA sets forth the requirements of this paragraph. Funding is required to be, at a minimum, ½% of APD's annual operation budget and based on observation of the CPOA and interviews of the CPOA Director and staff, this budget appears to be adequate as of the first site visit. Observation of the CPOA, interviews of the CPOA Director and staff, and review of completed CPOA investigations indicate primary compliance with this paragraph.

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

4.7.210 Compliance with Paragraph 280: CPOA Complaint Intake and Processing

Paragraph 280 stipulates:

The Executive Director will receive all APD civilian complaints, reports of serious uses of force, and reports of officer-involved shootings. The Executive Director will review these materials and assign them for investigation or review to those on the investigative staff. The Executive Director will oversee, monitor, and review all such investigations or reviews and make findings for each. All findings will be forwarded to the agency through reports that will be made available to the public on the agency's website.

Methodology

The existing CPOA Ordinance sets forth the requirements as stipulated in this paragraph. A review of randomly selected CPOA investigations by the monitoring team during this site visit indicated Executive Director compliance with the tasks of this paragraph. A review of Annual CPOA Reports on the CPOA website reveals that CPOA findings are made available to the public.

Results

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

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

Paragraph 281 stipulates:

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

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

The Ordinance sets forth the requirements of this paragraph in an acceptable manner. A review of randomly selected CPOA investigations by the monitoring team during this site visit indicated Executive Director compliance with the tasks of this paragraph.

A review of randomly selected CPOA investigations by the monitoring team during this site visit revealed two cases that took an inordinate amount of time to be completed without any discernible reason for the delay. A review of randomly selected CPOA investigations by the monitoring team during this site visit revealed two instances where discipline was not imposed due to delay in findings.

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

4.7.212 Compliance with Paragraph 282: CPOA Access to Needed Documents

Paragraph 282 stipulates:

The City shall ensure that the agency, including its investigative staff and the Executive Director, have access to all APD documents, reports, and other materials that are reasonably necessary for the agency to perform thorough, independent investigations of civilian complaints and reviews of serious uses of force and officer-involved shootings. At a minimum, the City shall provide the agency, its investigative staff, and the Executive Director access to:

- a) all civilian complaints, including those submitted anonymously or by a third party;
- b) the identities of officers involved in incidents under review;
- c) the complete disciplinary history of the officers involved in incidents under review;
- d) if requested, documents, reports, and other materials for incidents related to those under review, such as incidents involving the same officer(s);
- e) all APD policies and training; and
- f) if requested, documents, reports, and other materials for incidents that may evince an overall trend in APD's use of force, internal accountability, policies, or training.

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

The Ordinance provides that the CPOA Director "shall have access to any Police Department information or documents that are relevant to a civilian's complaint, or to an issue which is ongoing at the CPOA." This language is broad enough to encompass subparagraphs a through f of this paragraph. Based on observation and interviews it appears that the IAB and CPOA work cooperatively. There were no complaints lodged with the monitoring team of the CPOA not having access to needed information, and completed investigations certainly indicate the CPOA has had needed and stipulated access.

Primary: In Compliance
Secondary: In Compliance

Operational: In Compliance

4.7.213 Compliance with Paragraph 283: Access to Records by CPOA

Paragraph 283 stipulates:

The City shall provide reasonable access to APD premises, files, documents, reports, and other materials for inspection by those appointed to the agency, its investigative staff, and the Executive Director upon reasonable notice. The City shall grant the agency the authority to subpoena such documents and witnesses as may be necessary to carry out the agency functions identified in this Agreement.

Methodology

Members of the monitoring team have seen no regulations, procedures or orders pertaining to the CPOA's authority to subpoena documents and witnesses. Although the Ordinance provides that the CPOA Director shall have access to any Police Department information or documents that are relevant to a civilian's complaint or to an issue that is ongoing at the CPOA, it is silent on subpoena power or the authority to compel the presence of witnesses.

Results

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

4.7.214 Compliance with Paragraph 284: Confidentiality Protocols at CPOA

Paragraph 284 stipulates:

The City, APD, and the agency shall develop protocols to ensure the confidentiality of internal investigation files and to ensure that materials protected from disclosure remain within the custody and control of APD at all times.

Methodology

Policy mandating compliance with this paragraph is contained in AO 2-05, currently under review. It is expected that upon revision and formal adoption of AO 2-05, the APD will be in primary compliance of this task. The Ordinance requires the Police Oversight Board to review confidential and Garrity material only in closed sessions and to maintain confidentiality of such materials. Members of the monitoring team have seen no other protocols developed to comply with this paragraph. A review of randomly selected IAB and CPOA

investigations by the monitoring team during this site visit did not reveal any instances of non-compliance with the confidentiality requirements. No instance of a breach of the confidentiality requirements was noted by the monitoring team.

Results

Primary: **Not Yet Due**

Secondary: **Not Yet Due**

Operational: **Not Yet Due**

4.7.215 Compliance with Paragraph 285: CPOA to Recommend Discipline

Paragraph 285 stipulates:

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

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

The Ordinance sets forth the policy required by this paragraph, empowering the Director to make recommendations regarding disciplinary action directly to the Chief before submitting same to the POB in order to ensure the timeliness required by the Collective Bargaining Agreement (CBA). These recommendations are required to be approved by the POB. Ideally the Chief should also have the benefit of approved recommendations of the POB. The monitoring team is concerned that there is not yet in place a system that allows for POB recommendations within the time guidelines required by the CBA.

A review of randomly selected CPOA investigations by the monitoring team during this site did not reveal any instances of the Chief not following the disciplinary recommendation of the POB or failing to respond in writing within thirty (30) days articulating why the recommended discipline was not imposed.

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

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

Paragraph 286 stipulates:

Findings of the Executive Director shall be documented by APD's Internal Affairs Bureau for tracking and analysis.

Methodology

Policy mandating compliance with this paragraph is contained in AO 2-05, which states that the IAB shall monitor, audit, document and provide statistical analysis of all allegations of misconduct against an employee of the APD. Although this language is broad enough to capture the requirements of this paragraph, the requirements of this paragraph should be set forth more succinctly and clearly.

Members of the monitoring team have seen no regulations or orders setting forth the requirements of this paragraph. AO 2-05 is currently under review. Revisions of AO 2-05 and formal adoption of same will be necessary for primary compliance where policy required by the CASA is contained in AO 2-05. Based upon observation and interview of IAB and CPOA personnel it is clear that IAB captures the findings of the CPOA for tracking and analysis purposes.

Results

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

4.7.217 Compliance with Paragraph 287: Appeals of CPOA Findings

Paragraph 287 stipulates:

The City shall permit complainants a meaningful opportunity to appeal the Executive Director's findings to the agency.

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random

selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

The Ordinance contains the policy required by this paragraph, and permits a complainant to request reconsideration in the form of a hearing when dissatisfied with the findings and/or recommendations of the POB (findings of Executive Director to and approved by the POB). The Ordinance also permits an appeal by the complainant to the Chief Administrative Officer of the final disciplinary decision of the Chief of Police. A review by the monitoring team of randomly selected CPOA investigations by the monitoring team did not show any instances of requests for reconsideration or appeals.

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

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

Paragraph 288 stipulates:

The agency shall make recommendations to the Chief regarding APD policy and training. APD shall submit all changes to policy related to this Agreement (i.e., use of force, specialized units, crisis intervention, civilian complaints, supervision, discipline, and community engagement) to the agency for review, and the agency shall report any concerns it may have to the Chief regarding policy changes.

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

A review of recent completed CPOA cases found none that resulted in recommendations to the Chief of Police regarding changes to APD policy and training. None of the completed cases CPOA reviewed by the monitoring team this reporting period appeared to indicate a need for a policy-change recommendation by the CPOA.

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

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

For any of the agency's policy recommendations that the Chief decides not to follow, or any concerns that the agency has regarding changes to policy that Chief finds unfounded, the Chief shall provide a written report to the agency explaining any reasons why such policy recommendations will not be followed or why the agency's concerns are unfounded.

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period. None involved recommendations to the APD that raised concerns applicable to this paragraph.

Results

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

4.7.220 Compliance with Paragraph 290: CPOA Public Meetings

Paragraph 290 stipulates:

The agency shall conduct regular public meetings in compliance with state and local law. The City shall make agendas of these meetings available in advance on websites of the City, the City Council, the agency, and APD.

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

The Ordinance requires the POB to conduct regularly scheduled public meetings in compliance with the New Mexico Open Meetings Act, and further requires each meeting to have a prepared agenda distributed in advance to the Mayor, City Council, Police Chief, and City Attorney. However the Ordinance does not require the agendas to be made available to the public via the websites of the City, City Council, CPOA or APD.

A review of the CPOA website indicates that time, date and place of meetings are publicized as well as the meeting agenda. The CPOA Annual Report lists when POB meetings and sub-committee meetings were held.

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

4.7.222 Compliance Paragraph 291: CPOA Community Outreach

Paragraph 291 stipulates:

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

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

Results

The Ordinance empowering the CPOA requires the agency to develop and implement a Community Outreach program, and requires the Executive Director of the CPOA to play an active role in the community and in community outreach efforts of the Agency. The CPOA Table of Organization provided during the site monitoring team's site visit showed a vacancy in what appears to be a newly created Community outreach position.

The monitoring team was unable to observe any CPOA Community outreach events during the site visit. Although the monitoring team is unaware of CPOA community outreach efforts during the monitoring period, the CPOA Annual Report lists numerous CPOA Executive Director community outreach efforts in

2014 aimed at explaining the police oversight process to the public. The monitoring team would expect that upon hiring of the Community Outreach specialist in the CPOA and demonstration of continued community outreach efforts during the next monitoring period there would be full compliance with this paragraph.

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

4.7.223 Compliance with Paragraph 292: CPOA Semi-Annual Reports

Paragraph 292 stipulates:

The City shall require the agency to submit semi-annual reports to the City Council on its activities, including:

- a) number and type of complaints received and considered, including any dispositions by the Executive Director, the agency, and the Chief;
- b) demographic category of complainants;
- c) number and type of serious force incidents received and considered, including any dispositions by the Executive Director, the agency, and the Chief;
- d) number of officer-involved shootings received and considered, including any dispositions by the Executive Director, the agency, and the Chief;
- e) policy changes submitted by APD, including any dispositions by the Executive Director, the agency, and the Chief;
- f) policy changes recommended by the agency, including any dispositions by the Chief;
- g) public outreach efforts undertaken by the agency and/or Executive Director; and
- h) trends or issues with APD's use of force, policies, or training.

Methodology

Members of the monitoring team had several meetings during the site visit with members of the CPOA and visited the CPOA office, reviewed CPOA literature and documents related to the Internal Affairs process, and reviewed a random selection of Civilian Police Oversight Agency investigations that were completed during this monitoring period.

The Ordinance requires the semi-annual reports to City Council with the information set forth in this paragraph,; **however**, that the Ordinance does not explicitly require a separate analysis of serious force incidents as set forth in this paragraph.

The monitoring team reviewed the CPOA website revealed a semi-annual and an annual report for 2014 as well as an Officer Involved Shooting Report for 2010-2014. Both the semi-annual and annual reports contain a separate section

entitled Officer Involved Shootings. The reports list the findings of the Executive Director and POB of the CPOA, but do not list the dispositions of the Chief.

Results

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

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

Paragraph 320 stipulates:

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

Methodology

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

Results

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

5.0 METHODOLOGY

The methodology developed for assessing APD's compliance with the requirements of the decree was developed by the monitor and "staffed" through the Parties. Each of the specific elements of the CASA were, where possible, operationally defined using quantitative data. The few elements that did not lend themselves to quantitative measures were defined qualitatively. For example, a quantitative measure is illustrated by the measure for the first task evaluated by the monitoring team, Task 14a requires "14. Use of force by APD officers, regardless of the type of force, tactics, or weapon used, shall abide by the following requirements: a) officers shall use advisements, warnings, and verbal persuasion, when possible, before resorting to force. The Methodology defines nine quantifiable sources of "measures" of success for meeting the requirements of the policy statement, and further defines greater than 95 percent of "all Use of Force" incidents and reports to be "within articulated policy ."

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

6.0 SUMMARY

The City's performance on tasks due as of the date of this report is meaningful. The APD and the City are in compliance for all of the five tasks due as of the operational dates for the first report (February-May, 2015). Compliance areas are all in tasks that reasonably are prefatory, as follows:

Paragraph 141: Providing the opportunity for rank and file officers to review and comment on new or existing policies (this was a **three-month** compliance deadline);

Paragraph 142: Implementation of the Policy and Procedures Review Board (this was a **three-month** compliance deadline);

Paragraph 149: Ensuring that all officers are briefed and presented the terms of the Agreement (this was a policy with a **two-month** compliance deadline);

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

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

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

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

As the CASA process builds momentum in the coming months the APD needs to carefully consider its priorities, and develop mechanisms to change existing behavior on the street and in supervisory process.

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

1. **Developing an effective and efficient NEEDS ASSESSMENT process for training;**
2. **Development of effective POLICY reflective of the United States Constitution and best practices in the field;**
3. **Creation of strong TRAINING development and delivery of processes;**
4. **Building effective SUPERVISORY SKILLS and abilities among sergeants and lieutenants;**
5. **Development of effective and reliable systems of progressive DISCIPLINE, designed to identify critical points of deviation from articulated policy and to remedy behavior that is not consistent with policy;**
6. **In addition, the APD will eventually need to build a strong SELF-ASSESSMENT and self-reporting ethos among command and management staff;**
7. **Finally, the Agency has committed itself to a strong COMMUNITY OUTREACH strategy, designed to shed light on internal operational processes, consult with the consumers of APD's tactics, processes, and strategies, and eventually share some degree of decision-making with the communities APD serves.**

Further adding to the already significant pressures on APD is the fact that the City has agreed to take the steps necessary to incubate and nurture effective organizational development and planned change strategies at the APD in an accelerated timeframe.

The APD has significant hills to climb regarding assessing needs for training, developing clear, concise, understandable policy guidance and overseeing one of the most complex organizational development and planned change process ever undertaken by American managers. To change a "for profit" organization is complex, and, affects usually "the bottom line" in those organizations. In a police agency the at-risk elements include much more serious factors.

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

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